Mandatory Greenhouse Gas Reporting Rule: EPA's Response to Public Comments

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Designated Representative and Data Collection, Reporting, Management, and Dissemination

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Designated Representative and Data Collection, Reporting, Management, and Dissemination

U. S. Environmental Protection Agency
Office of Atmosphere Programs
Climate Change Division
Washington, D.C.

FOREWORD

This document provides EPA's responses to public comments on EPA's Proposed Mandatory Greenhouse Gas Reporting Rule. EPA published a Notice of Proposed Rulemaking in the Federal Register on April 10, 2009 (74 FR 16448). EPA received comments on this proposed rule via mail, e-mail, facsimile, and at two public hearings held in Washington, DC and Sacramento, California in April 2009. Copies of all comments submitted are available at the EPA Docket Center Public Reading Room. Comments letters and transcripts of the public hearings are also available electronically through *http://www.regulations.gov* by searching Docket ID *EPA-HQ-OAR-2008-0508.*

Due to the size and scope of this rulemaking, EPA prepared this document in multiple volumes, with each volume focusing on a different broad subject area of the rule. This volume of the document provides EPA's responses to significant public comments regarding the designated representative and the data collection, reporting, management, and dissemination processes.

Each volume provides the verbatim text of comments extracted from the original letter or public hearing transcript. For each comment, the name and affiliation of the commenter, the document control number (DCN) assigned to the comment letter, and the number of the comment excerpt is provided. In some cases the same comment excerpt was submitted by two or more commenters either by submittal of a form letter prepared by an organization or by the commenter incorporating by reference the comments in another comment letter. Rather than repeat these comment excerpts for each commenter, EPA has listed the comment excerpt only once and provided a list of all the commenters who submitted the same form letter or otherwise incorporated the comments by reference in table(s) at the end of each volume (as appropriate).

EPA's responses to comments are generally provided immediately following each comment excerpt. However, in instances where several commenters raised similar or related issues, EPA has grouped these comments together and provided a single response after the first comment excerpt in the group and referenced this response in the other comment excerpts. In some cases, EPA provided responses to specific comments or groups of similar comments in the preamble to the final rulemaking. Rather than repeating those responses in this document, EPA has referenced the preamble.

While every effort was made to include significant comments regarding the designated representative and the data collection, reporting, management, and dissemination processes in this volume, some comments inevitably overlap multiple subject areas. For comments that overlapped two or more subject areas, EPA assigned the comment to a single subject category based on an assessment of the principle subject of the comment. For this reason, EPA encourages the public to read the other volumes of this document with subject areas that may be relevant to the designated representative and the data collection, reporting, management, and dissemination processes.

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I. DESIGNATED REPRESENTATIVE (AUTHORIZATION AND RESPONSIBILITIES)

Commenter Name: J. Southerland
Commenter Affiliation: None
Document Control Number: EPA-HQ-OAR-2008-0508-0165
Comment Excerpt Number: 26

Comment: Designated Representative is Responsible Official in air lingo. Keep things as consistent as possible.

Response: See the preamble, Section V.B.1 responses on Designated Representatives and Certification Statement.

Commenter Name: Robert P. Strieter
Commenter Affiliation: The Aluminum Association
Document Control Number: EPA-HQ–OAR-2008-0508-0350.1
Comment Excerpt Number: 9

Comment: Although the Association supports the self-certification provision, we are concerned with the proposed requirement to certify a "designated representative … by an agreement binding on the owners and operators" and to update such certifications with each new Plant Manager. In our view, certification by a "Responsible Official" such as according to certification language under the Title V Operating Permit program (40 CFR Part 70) would be more than adequate for the proposed emissions reporting rule. Furthermore, most of the facilities subject to the proposed GHG reporting program already have identified a "responsible official" for either Title V Operating Permits and/or other State permit program obligations. Requiring submission of a separate and duplicate binding certification just for GHG reporting is an unnecessary bureaucratic burden that should be revised in the final rule.

Response: See the preamble, Section V.B.1 responses on Designated Representatives and Certification Statement.

Commenter Name: Thomas Siegrist
Commenter Affiliation: Koch Nitrogen Company LLC
Document Control Number: EPA-HQ-OAR-2008-0508-0351.1
Comment Excerpt Number: 22

Comment: The specific procedures that are proposed for self-certification in proposed § 98.4 are in our view too restrictive and will lead to confusion and needless complexity. We support a certification approach that mirrors the approach EPA adopted in the Clean Air Act major source operating permit program, 40 C.F.R. Part 70. The certifications required for this program are far more streamlined yet still accomplish the important goals of a self-certification program.

Response: See the preamble Section V.B.1 response on Certification Statement.

Commenter Name: See Table 2
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0367.1
Comment Excerpt Number: 8

Comment: The proposed regulation currently says that "each owner or operator that is subject to this part shall have one and only one designated representative responsible for certifying and submitting GHG emissions reports...under this part". EPA should allow each owner or operator to have different designated representatives for different facilities. In most independent oil and gas production companies, there will be different operational management over different geographically located facilities, and over offshore platforms and midstream operations. Currently, some of our member companies will have between 30 and 140 facilities that will be required to report, such that the designated person could no longer be someone intimately acquainted with the facility, like the plant manager or superintendent suggested by the rule, but would have to be someone much higher in the organization with much less knowledge of operations at the facilities. EPA should follow the same procedure and the same certification language for a designated representative as for a responsible official under 40 CFR Part 70. The proposed certification language says: "I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments." Persons who qualify for the position of designated representative, such as plant managers or superintendents, do not have time to review the myriad details required to support all the GHG calculations in the inventory report. EPA should reduce the administrative burden associated with the designation. There is no reason to think that companies will treat a certified greenhouse gas emission inventory any less seriously than an emission inventory for other air pollutants, and yet there are extensive requirements to get non-operators to vote on a designated representative, maintain records of documents of agreement, and update those records within 30 days anytime a single owner, operator, lessor, designated representative or alternate designated representative changes. This requirement is impractical in the oil and gas business, particularly if EPA is seriously considering amending the regulation to include oil and natural gas production facilities on an area-wide basis. Each well in a field may have different ownership by different companies, and ownership interests change hands on a weekly basis. Even with compressor stations, gas plants, and offshore platforms, there are multiple owners and/or lessors (such as banks), and properties are sold or swapped frequently. If EPA does maintain the requirement for an update to the records, the 30 day period should be lengthened to 90 days since it often takes that long for news of an owner change to filter throughout an organization. EPA should not penalize the owners and operators who sign a certificate of representation and put them at risk of enforcement by refusing to accept a GHG emission inventory if 100% of the ownership and operator interests are not represented by the certificate. It is often difficult to locate the heirs of a working interest, or to keep track of who is supposed to inherit when someone dies. It is also difficult to get people with small interests to read and sign agreements sent to them. Getting 100% sign-on by owners and operators sets an unreasonably high bar, and involves a paperwork exercise that does not improve the quality of the data being sought to help the government with policy decisions. In fact, if EPA refuses to accept numerous emission inventories due to the lack of 100% acquiescence by owners to the designated representative, the quality of data available to make policy decisions will be worse than if EPA accepted emission inventories certified by the operator.

Response: For the response on designated representatives and certification, see the preamble, Section V.B.1 response on Designated Representatives and Certification Statement. See also the response on this issue in EPA-HQ-OAR-2008-0508-0406.1, Excerpt 1. EPA agrees that the 30

day period originally proposed was too short and the final rule allows reporters up to 90 days to submit a revised certificate of representation when a change in owners or operators occurs. See also the preamble, Section V.B.2 response on Certificate of Representation and the rule, Section 98.4(h) and Section 98.4(i)(3).

Commenter Name: Kim Dang
Commenter Affiliation: Kinder Morgan Energy Partners, L.P.
Document Control Number: EPA-HQ-OAR-2008-0508-0370.1
Comment Excerpt Number: 5

Comment: Kinder Morgan is deeply concerned by the implication in the proposed 40 C.F.R. 9 8.4(h) that a new owner of a facility could incur legal liability for actions that the Designated Representative undertook under previous ownership. EPA should clarify that the liability of a new owner only extends to actions of the Designated Representative made after the change in ownership and after the point when the Designated Representative becomes an employee of the new owner. The previous owner should remain liable for statements made by its Designated Representative during its period of operation and ownership. Indeed, EPA's new pilot project under its audit policy recognizes that new owners are not responsible for compliance prior to their ownership. [Footnote: Interim Approach to Applying the Audit Policy to New Owners, 73 Fed. Reg. 44,991, 44,995 (Aug. 1, 2008).] The clarifying language that Kinder Morgan suggests below is also consistent with existing permit requirements under the Clean Air Act and the Clean Water Act, which require owners and operators to be responsible for their actions and hold the permit during their period of ownership or operation but not thereafter. In any industry where facilities change corporate ownership, lack of clarity on this point could unintentionally create significant legal risks. Suggested change to owners and operators obligations in Section 98.4(h): (1) Changes in owners and operators. In the event a new owner or operator is not included in the list of owners and operators in the certificate of representation under this section, such new owner or operator shall be deemed to be subject to and bound by statements or actions of the designated representative made after the new owner or operator commenced ownership or operation. Such statements or actions shall include the certificate of representation, the representations, actions, inactions, and submissions of the designated representative and any alternate designated representative, as if the new owner or operator were included in such list.... (2) Liability. Notwithstanding any other provision of this subpart, no new owner or operator of a facility shall be held liable for any certificate, representation, action, inaction or submission of a designated representative made before the new owner obtained title to the reporting facility or before the new operator began operating the reporting facility.

Response: The commenter objects to the rule provision (40 CFR 98.4(h)) with regard to the treatment of entities that become new owners and are not listed in the then effective certificate of representation. EPA rejects the commenter's objection and suggested rule language changes. The rule provision does not change or imply a change in, with regard to owners and operators, the generally applicable approaches to determining civil or criminal liability. The rule provision addresses situations where a person becomes a new owner or is an existing owner, but the certificate of representation that is in effect at that time does not list that person as an owner. In the case of a new owner, the rule provides that that certificate of representation, and the actions of the designated representative under that certificate of representation, are binding on the new owner to the same extent that they bind an owner that is listed in that certificate of representation. For example, elections made by the designated representative before the receipt of the new certificate of representation concerning the monitoring method used are binding on

the new owner, who continues to be bound by such election unless the designated representative (whether the individual selected in the existing certificate of representation or a new individual selected in a new certificate of representation) submits a new election, consistent with the applicable monitoring provisions. EPA notes that a new owner can avoid the situation of being bound by the pre-existing certificate of representation and the pre-existing designated representative by having a new certificate of representation submitted that lists the new owner and makes any other changes deemed appropriate by the new owner, e.g., changes the designated representative.

In addition, it is important to clarify that the "Interim Approach to Applying the Audit Policy to New Owners" does not "recognize that new owners are not responsible for compliance prior to their ownership." Rather, it recognizes that, in the context of a new owner making a self-disclosure of a violation to EPA, "there are equitable and policy arguments that a new owner should not be penalized for the full economic benefit relating to violations that arose before a facility was under its control, if that new owner is willing to promptly address such violations and make changes to ensure that the facility stays in compliance in the future."

Commenter Name: Kerry Kelly
Commenter Affiliation: Waste Management (WM)
Document Control Number: EPA-HQ-OAR-2008-0508-0376.1
Comment Excerpt Number: 26

Comment: The proposed GHG reporting rule requires that the designated representative provide to EPA a "certificate of representation" before filing the GHG emissions report. Id. at 16,615 (proposed 40 C.F.R. §§ 98.4(b)-(d), (i). The preamble to the proposed rule presents no rationale for this "layer" of certification, and no rationale is obvious from Waste Management's general experience with other certification regimes, such as Title V's requirement that a "responsible official" sign compliance certifications. See, e.g., 40 C.F.R. §§ 70.5(d), 71.5(d) (requiring certification of "truth, accuracy, and completeness" by a "responsible official," but not requiring the responsible official to prove his/her "bona fides" as in the proposed GHG reporting rule). It is possible that the certification of representation concept was adopted from the Acid Rain program, as authorized by Section 408a and 408i of the Clean Air Act. However, the Acid Rain program concerns the distribution of allowances and processing of transactions involving allowances, set asides, account withdrawals and the granting of permits. By contrast, the GHG reporting rule does not contain these concepts, nor are the concepts proposed in this regulation supported by the text of the CAA or applicable precedent. Accordingly, in the context of a mandatory GHG "reporting only" statute, the best approach is to allow any responsible official or "authorized representative," i.e., a person who has overall responsibility for environmental matters at the site, to file the GHG emission report certifying to same, and to not require a certification of representation. [Footnote: There is also a "designated representative" approach in the voluntary Western Climate Initiative provisions, but those provisions should similarly not serve as a template here because the WCI is a non-governmental organization that has no enforcement authority of its own. As such, it has strict standards for verification and certification, since those are the only tools it has to ensure validity of data/reports submitted. Integration of a designated representative provision from WCI into the GHG reporting rule is wholly inappropriate because the GHG rule is enforceable as a matter of law.] Accordingly, Waste Management requests that the certificate of representation requirement be eliminated from the GHG reporting rule. As noted above, Waste Management also requests that any individual

who is a "responsible official" (see, e.g. Title V definition) be deemed to satisfy the signatory requirements of the new rule.

Response: See the preamble Section V.B.1 response on Certification Statement. See also the response on this issue in EPA-HQ-OAR-2008-0508-0406.1, Excerpt 1

Commenter Name: Kerry Kelly
Commenter Affiliation: Waste Management (WM)
Document Control Number: EPA-HQ-OAR-2008-0508-0376.1
Comment Excerpt Number: 24

Comment: Waste Management proposes a minor change to the proposed regulations governing the certification standard for the designated representative (or, as proposed below, the responsible official). The fourth sentence of section 98.4(e)(1) would read “Based on information and belief formed after my reasonable inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are true, accurate, and complete.” The Agency should note that the preamble does incorporate the "reasonably inquiry" concept proposed above. The Preambles states: loin behalf of the owner or operator, the Designated Representative would certify under penalty of law that the report has been prepared in accordance with the requirements of 40 CFR Part 98, and that the information contained in the report is true and accurate, based on a reasonable inquiry of individuals responsible for obtaining the information." 74 Fed. Reg. 16,448, 16,463 (Apr. 10, 2009)(emphasis added).

Response: See preamble Section V.B.1 response on Certification Statement.

Commenter Name: Kerry Kelly
Commenter Affiliation: Waste Management (WM)
Document Control Number: EPA-HQ-OAR-2008-0508-0376.1
Comment Excerpt Number: 25

Comment: Section 98.4 of the proposed GHG reporting rule requires that a "designated representative" certify the truth, accuracy and completeness of each GHG emissions report and any other submission to EPA under the rule. Proposed 40 C.F.R. § 98.4, 74 Fed. Reg. 16,448, 16,615-16 (Apr. 10, 2009). The concept of a "designated representative" should be replaced by a more flexible "responsible official" concept. Stated differently, a facility should be entitled to have one of many possible responsible officials sign a GHG emissions report, to address issues such as vacation schedules, sick leave, etc. While a compliance certification concept is not objectionable, there are several issues raised by Section 98.4 that are burdensome, yet can be remedied by adopting the language and structure of analogous programs including but not limited to the existing Title V program.

Response: See the preamble Section V.B.1 response on Designated Representatives and also the preamble Section V.B.1 response on Agents.

Commenter Name: Kerry Kelly
Commenter Affiliation: Waste Management (WM)
Document Control Number: EPA-HQ-OAR-2008-0508-0376.1
Comment Excerpt Number: 27

Comment: The proposed GHG reporting rule provides that a company cannot file its GHG emissions report until EPA has received a "complete" certificate of representation. Proposed 40 C.F.R. § 98.4(d). This presents two key issues. First, EPA apparently sets up a system in which two filings are necessary -- first, the certificate of representation, and second, the emissions report. Given our comment above that the certificate of representation is not necessary, this two step filing process also seems unnecessary. Second, there is the obvious timing issue that arises from the requirement that the certificate of representation be "complete." "Completeness" is a term of art that Waste Management has substantial experience with under the Title V program where, for example, the application shield only attaches after the state permitting authority has determined that an application is "complete." 40 C.F.R. §§ 70.5(a)(2), 71.5(a)(2) ("The source's ability to operate without a permit ...shall be in effect from the date the application is determined or deemed to be complete ...."). In the proposed GHG reporting rule, by contrast, there are no time frames under which EPA must determine whether a certificate of representation is complete or when it would be deemed complete, so the reporting facility will not know when it will be able to file its emissions report. This will cause needless confusion (and enforcement exposure to companies), and is yet another reason to eliminate the certificate of representation requirement. [Footnote: Alternatively, if EPA does not eliminate the certificate of representation requirement, EPA should amend the rule to provide that the company may submit its emissions report together with its certificate of representation, and rely on its good faith determination that its certificate is "complete" unless EPA objects to the certification within 30 days.]

Response: EPA maintains that the certificate of representation provisions are necessary in order, among other things, to identify an individual with whom EPA can interact concerning all questions or issues with regard to a facility's or supplier's compliance with monitoring, reporting, and recordkeeping requirements and to ensure a high level of accountability that – in conjunction with other rule provisions (e.g., quality assurance requirements) – results in a high level of data quality and consistency. EPA believes, and has found in its experience with implementing such provisions in the Acid Rain Program, that having one individual (along with an alternate, who provides flexibility to address circumstances when that individual is not available) who is accountable for knowing about and complying with these requirements, facilitates efficient resolution of monitoring and reporting related questions and issues and helps ensure data quality and consistency. Further, EPA notes that the commenter's reference to the title V permit application is inapposite here because the requirements that a certificate of representation must meet in order to be complete are, on their face, much simpler and less extensive than those for a title V permit application. In addition to standardized certification statements and basic information identifying the facility or supplier involved and the individuals who are the designated representative and alternate designated representative, the only other information required for a complete certificate of representation is a list of owners and operators. All of this information should be within the knowledge of the company or companies involved, and they should therefore know whether the certificate submitted by their respective designated representative is complete. Moreover, the final rule requires submission of the certificate of representation 60 days before the deadline for submission of the facility's or supplier's initial emission report in order to ensure that the certificate of representation has been processed before the submission of the initial report. EPA therefore rejects, as unnecessary, the commenter's suggested rule language changes.

Commenter Name: Traylor Champion
Commenter Affiliation: Georgia-Pacific, LLC (GP)
Document Control Number: EPA-HQ-OAR-2008-0508-0380.1
Comment Excerpt Number: 12

Comment: GP requests that GHG emissions reports be certified based on a "reasonable inquiry" standard as stated in the preamble to the proposed rule. GP requests that EPA incorporate a "reasonable inquiry" standard for GHG reports similar to that currently used under the Title V operating permit program, which requires that Title V submittals be certified by a responsible official with the statement that, "based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete." [40 CFR 70.5(d)]. It appears that EPA may have intended to incorporate this reasonable inquiry standard in the GHG reporting rule since, in the preamble to the proposed rule, EPA clearly states that the DR would certify GHG emission reports "based on a reasonable inquiry of individuals responsible for obtaining the information," [74 Fed. Reg. 16463]. However, the certification language given in the rule under §98.4(e)(1) omits the term "reasonable" when discussing the DR's inquiry of those responsible for obtaining the information, and in addition incorporates the more onerous requirements that the DR "personally examine" and be "familiar with" everything in the report and all attachments. To the extent EPA intentionally proposed the stricter inquiry standard from the acid rain and CAIR rules, including the "personally examine" and "familiar with" certification language, to establish a more stringent standard than Title V's "reasonable inquiry" standard, we believe it is unjustified. If the "reasonable inquiry" standard is a sufficient basis to certify compliance with a Title V permit that contains hundreds of separate applicable requirements, it should likewise be a sufficient basis to certify that a GHG emissions report (a single reporting requirement) is true, accurate and complete. The requirement in particular for a DR to "personally examine" and be "familiar with" all of the statements and information contained in the emissions report and all attachments goes well beyond what is required by the "reasonable inquiry" standard deemed adequate for Title V compliance certifications, and is unnecessarily burdensome for an emissions reporting rule such as this one.

Response: See the preamble Section V.B.1 response on Certification Statement.

Commenter Name: Traylor Champion
Commenter Affiliation: Georgia-Pacific, LLC (GP)
Document Control Number: EPA-HQ-OAR-2008-0508-0380.1
Comment Excerpt Number: 13

Comment: GP also requests EPA consider adding a materiality statement to the certification language similar to the CARB mandatory reporting of GHG emissions rule where a GHG report can be verified as conforming to the regulatory requirements if it is free of "material misstatements." A report would be free of "material misstatements" if it contains no errors that would result in facility-wide GHG emissions being less than 95% accurate.

Response: The commenter's suggested language effectively would mean that designated representatives be required to certify that the emission reports are at least 95% accurate, rather than that the reports are "true, accurate, and complete." EPA rejects this suggestion for the following reasons. First, under a 95% accurate standard, the absolute amount by which emissions could be overstated or understated would vary significantly with the total amount of

the facility's or supplier's emissions. For example, larger emitters could understate their emissions by much larger amounts of tons of carbon dioxide equivalent than small emitters. Given the importance of having accurate data for developing and implementing future greenhouse gas policies, it seems anomalous and contrary to the public interest to allow large amounts of emissions to be unreported. Second, EPA maintains that a requirement that designated representatives certify that their submitted emission reports are "true, accurate, and complete" creates a stronger incentive for high quality and consistent data than a required certification that the reports are only 95% accurate.

Commenter Name: Fiji George
Commenter Affiliation: El Paso Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0398.1
Comment Excerpt Number: 21

Comment: It often takes more than 30 days to get familiar with the compliance requirements of a newly acquired facility. Therefore, El Paso requests that 60 days be allowed for the submittal of the revised certificate of representation.

Response: EPA agrees that the 30 day period originally proposed was too short and the final rule allows reporters up to 90 days to submit a revised certificate of representation when a change in owners or operators occurs. See also the preamble, Section V.B.2 response on Certificate of Representation.

Commenter Name: Sheryl A. Corrigan
Commenter Affiliation: Koch Industries, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0406.1
Comment Excerpt Number: 1

Comment: For several reasons, KII disagrees with EPA's proposal to incorporate the Title IV designated representative model and requirements into EPA's proposed GHG reporting rule. First, unlike under Title IV, no statutory basis exists for EPA's proposal. The CAA does not require a designated representative for the purpose of reporting GHG emissions. Second, EPA has not expressed any concern in its GHG rulemaking proposal that the majority of sources that would be subject to the GHG reporting rule have multiple owners, and there is no reason to believe that this is the case, given the diverse nature of industry sectors and the number of facilities the rule would cover. In fact, the definition of facility as proposed includes "common ownership or common control." Thus, a designated representative is not necessary as a responsible official would be available to certify the submittal, consistent with other types of reports required by EPA. Accordingly, the reasoning expressed by EPA in adopting the Part 72 acid rain regulations simply is not present with regard to GHG reporting. Further, EPA has provided no other basis for its conclusion that utilizing the designated representative concept in its proposed GHG reporting rule will "simplify the administration of the program." Third, with no explanation, and for no apparent reason, EPA's proposed designated representative requirements go above and beyond the requirements of so many other equally important EPA programs such as NPDES, RCRA and EPA's CAA Title V program. See 40 CFR 122.22(a) and (d)(NPDES); 40 CFR 270.11(d)(RCRA); 40 CFR 70.6(d)(Title V). While the certification language in the proposed GHG reporting rule is similar to most CAA Title V programs, the obligations placed on a designated representative, and owners and operators with regard to their

designated representatives, go well beyond those imposed on "responsible officials" and owners and operators under Title V. Title V responsible official requirements are sufficient to enable EPA to administer Title V, and to "ensur[e] the accountability of an owner or operator for emission reports and other requirements" under Title V. EPA offers no explanation for why more is required under this proposed rule. Fourth, EPA's proposal is unnecessary and unreasonable for a reporting rule. The duties established by Congress for a designated representative in Title IV of the CAA – "to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit" – simply do not exist here. Rather, as EPA states, this rule is meant only to generate data to inform a range of "future climate change policies," which could include "research and development initiatives, economic incentives, new or expanded voluntary programs, adaptation strategies, emission standards, a carbon tax, or a cap-and-trade program." EPA further cautions that this rule "is just one effort to collect information," which may be followed by "subsequent efforts depending on future policy direction and/or requests from Congress." Requiring the use of a designated representative when the potential future use of the data to be gathered is so unknown is unnecessary and unduly burdensome. Fifth, and most fundamentally, it is improper and unenforceable for EPA to demand that facility owners and operators and designated representatives agree in advance to be bound by any order that EPA issues to them. This would constitute an impermissible requirement that individuals and regulated entities waive their right to contest future agency actions. If what EPA means is that an order mailed to a designated representative is considered delivered to an owner or operator, there is no need for the language proposed by EPA. Requiring designated representatives is not required to effect service of an order on a facility owner or operator, as evidenced by the numerous regulatory programs under which orders are issued directly to owners or operators without need for a designated representative. KII further notes that EPA does not require the use of a "designated representative" with regard to the submission of release information under the Agency's Toxic Release Inventory (TRI) program. As with the data to be collected under the GHG rule, EPA uses TRI data "to assist research, to aid in the development of regulations, guidelines, and standards, and for other purposes." 40 CFR § 3 72. 1. However, a TRI report may be signed by a "senior management official," and the TRI regulations do not place the same burdens on that person or a facility owner or operator as the GHG reporting rule would establish. In light of the above, again, KII disagrees with EPA's decision to incorporate the Title IV designated representative model into the proposed GHG reporting rule. Rather, KII submits that the TRI model, or at most, the Title V "responsible official" model, is more appropriate for EPA's GHG reporting rule. KII recommends that EPA revise its proposed rule to incorporate the provisions of one of these programs rather than acid rain "designated representative" provisions. Finally, KII expresses its concern that EPA's decision to propose incorporating the CAA Title IV model into the GHG reporting rule has broader implications than simply this rulemaking. As discussed above, this model simply is inappropriate for a reporting rule. EPA's action in including this model here raises the concern that EPA intends to shift from its long-standing approach to promulgating regulations under the CAA and other environmental statutes. That is, in most cases, EPA regulations provide for certification of information by appropriate company officials, who must attest to the accuracy of the information, and whose actions bind the owner or operator for which they are certifying. However, in this rulemaking, EPA proposes to incorporate the "designated representative" model with no statutory requirement or programmatic reason to do so. KIT objects to this shift in approach, and to any implication that EPA's long-standing approach of providing for certification by company officials, with the appropriate attestation and ability to bind owners and operators, is somehow not sufficient to assure compliance with the law.

Response: With regard to EPA's authority to adopt by rule designated representative requirements analogous to those under the Acid Rain Program, EPA has such authority, with regard to stationary sources, under CAA section 114. This section does not specifically refer to designated representatives. However, under section 114(a)(1) the Administrator may require a person who owns or operates an emission source to, among other things, "make such reports…and provide such other information as the Administrator may reasonably require" (42 U.S.C. 7414(a)(1)(B) and (G)). See also 42 U.S.C. 7601(a) (authorizing the Administrator "to prescribe such regulations as are necessary to carry out his functions under" the CAA). EPA believes that the requirements concerning the use of designated representatives to certify, sign, and submit emissions reports and other monitoring related submissions are necessary in order to ensure a high level of data quality and consistency for the data obtained pursuant to section 114 and that such level of quality and consistency is appropriate in light of the high level of public interest in such data and the important role such data may have in carrying out requirements of the CAA. EPA's experience in implementing the Acid Rain Program is that the designated representative requirements developed in that program are important in order to ensure high data quality and consistency. See also the preamble Section V.B.1 response on Certification Statement.

The commenter objects to the requirement that emission data be submitted by a designated representative and argues that a responsible official should be used instead. However, the designated representative requirements give owners and operators more flexibility with regard to what individuals may be selected to carry out the functions of certifying, signing, and submitting emission reports. In fact, owners and operators who would not want to use that flexibility and would prefer to select, as a representative, an individual who would meet the more prescriptive requirements of a "responsible official" can select such individual as their designated representative. Moreover, as the commenter acknowledges, EPA anticipates using the emission data in developing and implementing future climate change policies, including a wide range of possible programs. EPA maintains that the emission data therefore need to be of a high enough level of data quality and consistency to be useful in a wide range of programs. EPA believes that it is reasonable to adopt the designated representative requirements (e.g., concerning the limitation on the number of representatives and the certifications required for submissions by the designated representative) in light of its experience that such requirements have proved to be an important component of some programs, e.g., the cap-and-trade program under CAA title IV.

The commenter also interprets the rule language to require owners and operators to waive their right to contest future agency actions and objects to the rule on that basis. However, the commenter's interpretation is incorrect, and EPA therefore rejects the commenter's objection. The rule requires that the designated representative certify that the owners and operators of the facility or supplier represented are bound by any order issued to him by the Administrator or a court concerning that facility or supplier. This means that such owners and operators are bound by such an order issued to the designated representative just like they would be bound by such an order issued directly to them. EPA believes that this is reasonable if the designated representative is to truly represent the owners and operators and that it is reasonable to make this requirement explicit. Moreover, whether an order is issued directly to the owners and operators or to the designated representative, the owners and operators in all cases have the right to contest the order, as provided under the CAA.

Commenter Name: See Table 8
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0412.1
Comment Excerpt Number: 18

Comment: Designated representatives should be on a facility level. GPA supports EPA's proposal to require designated representatives at the facility level rather than the company level, since facility personnel will typically have direct knowledge of facility operations (moreover, the facility is the reporting entity, not the company). The selection of a representative at the facility level will ensure that a knowledgeable party familiar with the site's operations will be responsible for certifying and submitting the GHG emission reports. However, EPA should reconsider the designation of a representative for a facility under joint ownership. At jointly held facilities, EPA has proposed that all owners and operators at a facility enter into a binding agreement designating a representative prior to certifying and submitting these reports. 74 Fed. Reg. 16,615. This requirement will interfere with the contractual relationships among the owners, each of whom typically has different responsibilities (e.g., operational and nonoperational) that are outside the purview of EPA. For example, a recalcitrant or obstructionist owner, or one with a very minor ownership share and no operating responsibility, could seek commercial leverage against other owners by preventing the timely filing of GHG data by withholding or rescinding its consent to the designated representative. The result would be disrupted contractual relationships, an inability for the facility operator to fulfill compliance obligations, and erosion of EPA's goal of obtaining accurate inventory data on a timely basis. Therefore, GPA proposes the alternative of requiring the operating entity at the facility (as determined by contract among the owners) to designate the facility's representative. This alternative establishes a clear and simple method for designation and allows the joint owners to contract among themselves as to the consequences of the designation.

Response: See preamble Section V.B.1 response on Designated Representatives. EPA rejects the commenter's suggestion that the operator, but not the joint owners, of a facility be responsible for emissions reporting. EPA believes that requiring owners and operators to collectively be responsible for monitoring and reporting provides a higher level of accountability and thereby helps ensure, in conjunction with other elements of the monitoring and reporting requirements, a high level of data quality and consistency. Under this approach, owners (who in many cases may select and have some authority over the operator), as well as operators, will have an incentive to make sure that monitoring and reporting requirements are met. EPA's belief in the beneficial effect of holding owners and operators accountable is based on the agency's extensive experience with the use of this approach in the Acid Rain Program. Moreover, EPA disagrees with the commenter that this approach will interfere with contractual relationships among multiple owners. On the contrary, the final rule does not set any specific requirements (e.g., concerning the specific content or wording, or signature date, of such an agreement) for an agreement binding on the owners and operators for selection of the designated representative and therefore can accommodate a wide variety of circumstances, including existing contractual arrangements. For example, an existing contractual arrangement that gives all control of operations and regulatory compliance to a majority owner may constitute an agreement binding the owners and operators for selection of the designated representative, even though the existing contractual arrangement does not specifically reference such selection. The comment speculates – without reference to any actual examples – about possible scenarios where contractual arrangements might be disrupted and operators might be unable to comply with regulatory requirements. However, even though electricity generating facilities covered by the Acid Rain Program often have multiple owners, in many cases with different units having different owners

or ownership shares at a single facility, these speculative scenarios have not occurred despite the fact that the Acid Rain Program has been in operation since 1995. While the commenter states that its alternative of limiting reporting and selection of the designated representative to operators allows joint owners to address "the consequences" through contractual arrangements, EPA notes that under the final rule owners will still have the ability to address monitoring and reporting related matters (e.g., liability) through contract.

Commenter Name: Lorraine Krupa Gershman
Commenter Affiliation: American Chemistry Council (ACC)
Document Control Number: EPA-HQ-OAR-2008-0508-0423.2
Comment Excerpt Number: 27

Comment: The proposed rule requires a certificate of representation which must be revised if the designated representative changes. These provisions are not necessary and just create a paperwork exercise. The Title V operating permit program doesn't require a certification of representation. The responsible individual is the person who signs the certification. Considering the frequency of personnel changes, having facilities send in updated certificates of representation provides no value and creates a paperwork exercise. If this approach is followed by EPA, it should allow for a more generalized certificate of representation, such as ³plant manager or his/her delegated representative.´

Response: See the preamble Section V.B.1 response on Certification Statement.

Commenter Name: Lorraine Krupa Gershman
Commenter Affiliation: American Chemistry Council (ACC)
Document Control Number: EPA-HQ-OAR-2008-0508-0423.2
Comment Excerpt Number: 26

Comment: The provisions for the alternate designated representative set an inappropriate obligation on the original DR. The proposed rule allows for the DR to delegate responsibility to an alternative designate representative. For example, the DR might be on vacation or a medical leave. However, the rule language in §98.4(f)(1) states that ". .. any representation, action, inaction, or submission by the alternate designate representative shall be deemed to be a representation, action, inaction or submission by the designated representative." We recommend that 98.4(f)(1) be deleted--- the responsibility should lie with the alternate designate representative.

Response: See Response to Comment No. EPA-HQ-OAR-2008-0508-0679.1, Excerpt 45.

Commenter Name: Lorraine Krupa Gershman
Commenter Affiliation: American Chemistry Council (ACC)
Document Control Number: EPA-HQ-OAR-2008-0508-0423.2
Comment Excerpt Number: 25

Comment: The proposed rule sets an unrealistic expectation for the role of the DR. Section 98.4(e)(1) includes a certification statement containing the following language: ³...I certify under penalty of law that I have personally examined, and am familiar with, the statements and

information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete…´ This language sets an inappropriate standard for a plant manager with broad responsibilities. A site manager at a complex facility would not have the time to ³personally examine´ all the documents used to prepare the emissions report in light of his/her many other management responsibilities. A more appropriate standard is the one that is included in the Title V program --- a program that has more substantive requirements that include emission limitations. Under the Title V program, the certification by Responsible Officials is based on ³reasonable inquiry´ which involves working with and reviewing the facility compliance process and key documents supporting the certification. 40 CFR 71.5(d) requires the certification to state that "...based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete." A second example of a more appropriate standard is in the TRI program, in which the certification statement in 40 CFR 372.85(b)(2) is "I hereby certify that I have reviewed the attached documents and, to the best of my knowledge and belief, the submitted information is true and complete and that amounts and values in this report are accurate based upon reasonable estimates using data available to the preparer of the report."

Response: See the preamble Section V.B.1 response on Certification Statement.

Commenter Name: See Table 3
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0433.2
Comment Excerpt Number: 32

Comment: NPRA offers several comments on the certification requirements contained in the proposed rule, particularly the creation of a "designated representative" and the use of the certification as it relates to enforcement. In general, the certification requirements are onerous and create unnecessary enforcement concerns given the purpose of this rule, which is the reporting of greenhouse gas emissions for the purpose of setting national policy. As stated, this is a reporting rule and it is an inventory created for the sole purpose of gathering information upon which policy can be determined. It is not a regulation that requires control or serves another purpose. Other inventory and reporting rules, such as the TRI program do not contain similar certification and "designated representative" provisions. The certification language in the proposed rule is similar to most Title V programs. However, Title V serves the purposes of requiring regulated entities to certify compliance with virtually every federally applicable air requirement. It is inappropriate and onerous to apply the same certification language to an inventory reporting rule, particularly when other inventory reporting rules do not require this type of certification. Moreover, the proposed rule goes farther than even Title V requirements. The proposed rule incorporates a concept called a "designated representative." (§ 98.4). These provisions go well beyond the scope of even a "responsible official" certifying annual compliance under Title V. Additionally, the proposed rule discusses changes in ownership. The provision, as written, would mean that new owners purchasing a facility in an arms-length asset transaction would be bound by the "representations, actions, inactions, and submissions" made by a DR of the seller and prior to the purchase. NPRA members assume it is not EPA's intent to reach beyond legal and contractual boundaries to tax a new owner with responsibility for representations made prior to its purchase by an employee of the seller. Nonetheless, this provision must be clarified because, as written, that could be the result. In the preamble, EPA states that the creation of a DR is done for "administrative efficiency." It also appears that EPA

may have intended to increase the personal liability of the company representative signing certifications and to place that individual "between" the company and EPA. EPA does not explain how these steps, which go beyond even Title V certification requirements and have the potential to increase personal exposure of company representatives certifying submittals, will achieve "administrative efficiency." Further, it is unnecessary for the stated purpose of "ensuring accountability of an owner or operator." An owner or operator is accountable for the contents of its reports and the certifications that are signed under TRI and other reporting rules, without such onerous requirements. Additionally, owners and operators and responsible officials are accountable and even open to liability for false statements as a result of Title V certifications, without the need for these additional onerous provisions.

Response: For the response on designated representatives and certification requirements, see the preamble Section V.B.1. and responses to comment EPA-HQ-OAR-2008-0508-0370.1, Excerpt 5 and comment EPA-HQ-OAR-2008-0508-0376.1, Excerpt 27.

Commenter Name: Caroline Choi
Commenter Affiliation: Progress Energy
Document Control Number: EPA-HQ-OAR-2008-0508-0439.1
Comment Excerpt Number: 10

Comment: Progress Energy is concerned that by establishing additional requirements for DRs under this program. facilities with DRs under the ARP could be required to either change their ARP DR to meet the definition under this rule or identify an additional person to certify data already certified by the DR under the ARP. To the extent EPA intends the DR under this program to he responsible for making certifications with respect to data collected under Part 75, the Company suggests that EPA conform the definition of DR under this rule to the definition of DR under the ARP. Any other result may unreasonably interfere with electric generating facilities' choice of individuals to take responsibility for certifying data under Part 75. Conforming the definitions also is necessary in order to allow ARP DRs to make submissions under this program using their existing electronic signature authorizations as EPA suggests in the preamble.

Response: See the response to EPA-HQ-OAR-2008-0508-0473.1, excerpt 8.

Commenter Name: Caroline Choi
Commenter Affiliation: Progress Energy
Document Control Number: EPA-HQ-OAR-2008-0508-0439.1
Comment Excerpt Number: 11

Comment: EPA's proposed rule also does not address the need for "agents" to make electronic submissions on behalf of the DR. EPA proposes not only to allow, but to mandate electronic submission of data under the rule. Experience with electronic reporting under Part 75 has shown that DRs are often not the appropriate person to perform the tasks associated with the actual electronic submittal (as opposed to certification of the data). Early in the implementation of the ARP, EPA interpreted its rules as allowing for the use of agents to make submittals. Progress Energy encourages EPA to include a similar provision in this rule.

Response: See the preamble Section V.B.1.response on Agents.

Commenter Name: Melvin E. Keener
Commenter Affiliation: Coalition for Responsible Waste Incineration (CRWI)
Document Control Number: EPA-HQ-OAR-2008-0508-0446.1
Comment Excerpt Number: 7

Comment: CRWI is concerned that EPA has developed a new certifying official title called "designated representative." This type of position has been created in at least two other regulations and we see no reason to create a third. For reporting under Title V, EPA has already defined a "responsible official" in 63.2. This person is required to certify the accuracy of the reporting requirements under 63.10. For reporting under the Toxics Release Inventory, EPA simply requires the signature of a senior management official (§ 372.85(b)(2)). CRWI suggest that EPA make the final rule reporting requirements match one of these reporting requirements. We see no reason for a third.

Response: See the preamble, Section V.B.1 response on Designated Represenatives and Certification Statement.

Commenter Name: Laurie Burt
Commenter Affiliation: Massachusetts Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0453.1
Comment Excerpt Number: 25

Comment: Under Section VI B2 of the Preamble and in the proposed rule Section 98.4 (d), Data Submission, EPA is proposing that only reports that are signed by a designated representative may be submitted under the proposed GHG Reporting Rule. EPA is proposing to set up an authorization and authentication procedure for a Designated Representative for each source subject to reporting. The rule would require that all sources must send EPA a certification of their designated representative before submitting their GHG report. The rule does not allow for any time lag between when a source has submitted the designated representative and the source begins submitting their GHG report. Massachusetts recommends that EPA establish a requirement with an earlier date for sources to identify and certify the Designated Representative. This would give EPA time to set up the accounts and permissions of the Designated Representatives before the date the GHG report is due. Additionally, Massachusetts suggests that EPA allow sources to begin work on their GHG reporting before they have a certified designated official, but not allow sources to finalize their report until they have a certified designated official.

Response: EPA agrees with the commenter that an earlier deadline for submitting certificates of representation is advisable and has changed the language in the rule to reflect this. See preamble Section V second paragraph summarizing major changes since proposal. See also the response in preamble Section V.B.1 for Certificate of Representation.

Commenter Name: Bill Grygar
Commenter Affiliation: Anadarko Petroleum Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0459.1
Comment Excerpt Number: 8

Comment: EPA should follow the same procedure and the same certification language for a "Designated Representative" in the Proposed Rule as for a "Responsible Official". The proposed regulation currently states that "each owner or operator that is subject to this part shall have one and only one designated representative responsible for certifying and submitting GHG emissions reports…under this part". Anadarko questions the rationale for this provision as it ignores the complexities inherent in a modern corporation. Therefore, EPA should revise the rule to allow each owner or operator to have different designated representatives for different facilities. In most independent oil and gas production companies, there will be different operational management over different geographically located facilities, and over offshore platforms and midstream operations. EPA could incorporate a provision similar to that found in 40 CFR Part 70 that would require anyone signing a report to certify the veracity of the information contained in the report. EPA has not provided any explanation as to why there should be a different standard for GHG reports. EPA should revise the rule to reduce the administrative burden associated with the designation. As currently drafted, the rule could require an excessive amount of time to get non-operators to vote on a designated representative, maintain records of documents of agreement, and update those records within 30 days anytime a single owner, operator, lessor, designated representative or alternate designated representative changes. Not only is this provision unduly burdensome, it serves no practical purpose and again ignores the realities of the oil and gas industry. This requirement is impractical in the oil and gas business, particularly if EPA is considering supplementing the reporting requirements to include oil and natural gas production facilities. Each well in a field may have different ownership by different companies, and ownership interests can change on a weekly basis. Even with compressor stations, gas plants, and offshore platforms, there are multiple owners and/or lessors (such as banks), and properties are sold or swapped frequently. EPA should not penalize the owners and operators who sign a certificate of representation and put them at risk of enforcement by refusing to accept a GHG emission inventory if 100% of the ownership and operator interests are not represented by the certificate. It is often difficult to locate the heirs of a working interest, or to keep track of who is supposed to inherit when someone dies. It is also difficult to get people with small interests to read and sign agreements sent to them. Getting 100% sign-on by owners and operators sets an unreasonably high bar, and involves a paperwork exercise that does not improve the quality of the data being sought to help the government with policy decisions.

Response: For the response on designated representatives, See Preamble V.B.1. In the final rule, EPA clarified the rule language concerning the designated representative requirement to state that each facility and each supplier must have one designated representative and may have one alternate designated representative and that the designated representative and alternate designated representative may have agents. This gives companies considerable flexibility and, for example, allows a company to have different designated representative for different facilities. In addition, in the final rule, EPA adopted provisions aimed at reducing the burden of certificate of representation requirements while retaining those aspects of the requirements that are important to ensure a high level of data quality and consistency and a high level of accountability. For example, under the final rule, the definition of "owner" excludes persons who have a legal or equitable interest or leasehold interest that arises solely from being a limited partner in a partnership that has a legal or equitable interest or leasehold interest or control. By further example, under the final rule, a certificate of representation that lists the operators and all

owners with control is not incomplete if other owners are not included in the list. However, the designated representative must submit a certificate of representation that corrects the list.

Commenter Name: Patrick J. Nugent
Commenter Affiliation: Texas Pipeline Association (TPA)
Document Control Number: EPA-HQ-OAR-2008-0508-0460.1
Comment Excerpt Number: 17

Comment: TPA generally supports the designated representative provisions of proposed § 98.4 but is opposed to the procedures related to multiple owners. TPA generally is in favor of proposed 98_4(h) because it would place reporting responsibility on persons most familiar with the facility's operations. However, TPA opposes the portions of this section that would require certification materials to include a list of the owners and operators of the facility. Such a requirement would pose potential issues related to disclosure of confidential business information.

Response: See the preamble Section II.R. on Summary of Comments and Responses on CBI. Furthermore, EPA modified the definition of owner to clarify that reporters must list only those owners with operational control on the certificate of representation.

Commenter Name: J. Michael Kennedy
Commenter Affiliation: Florida Electric Power Coordinating Group
Document Control Number: EPA-HQ-OAR-2008-0508-0473.1
Comment Excerpt Number: 8

Comment: Under proposed § 98.3(c), each annual emissions report must include a signed certification statement by the "designated representative" of the owner or operator. Under proposed § 98,4(a), the designated representative must be: ... an individual having responsibility for the overall operation of the facility or activity such as the position of the plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. This definition is significantly narrower than the definition of "designated representative" (DR) under the ARP, which provides: Designated representative means a responsible natural person authorized by the owners and operators of an affected source and of all affected units at the source or by the owners and operators of a combustion source or process source, as evidenced by a certificate of representation submitted in accordance with subpart B of this part, to represent and legally bind each owner and operator, as a matter of Federal law, in matters pertaining to the Acid Rain Program. FCG is concerned that by establishing additional requirements for DRs under this program; facilities with DRs under the ARP could be required to either change their ARP DR to meet the definition under this rule or identify an additional person to certify data already certified by the DR under the ARP. To the extent EPA intends the DR under this program to be responsible for making certifications with respect to data collected under Part 75, EPA must conform the definition of DR under this rule to the definition of DR under the ARP. Any other result would unreasonably interfere with electric generating facilities' choice of individuals to take responsibility for certifying data under Part 75. Conforming the definitions also is necessary in order to allow ARP DRs to make submissions under this program using their existing electronic signature authorizations as EPA suggests in the preamble.

Response: EPA agrees that the proposed definition of "designated representative" may have been too restrictive and has modified the definition of the designated representative in the rule to be similar to the the Acid Rain Program (ARP) and to provide more flexibility to reporters. See also the preamble Section V.B.1 response on Designated Representatives.

Commenter Name: W. Walter Tyler
Commenter Affiliation: INVISTA S.a r.l. (INVISTA)
Document Control Number: EPA-HQ-OAR-2008-0508-0481.2
Comment Excerpt Number: 3

Comment: The certification requirement is unnecessarily stringent – a certification consistent with the purposes of a data collection rule should be adopted. The self-certification provision in the Proposed Rule requires that each report be certified by a "Designated Representative" who has responsibility for the overall operation of the facility and who must "be selected by agreement binding on the owners and operators." Proposed 40 CFR § 98.4. Although this certification language has been used in other contexts, it imposes unnecessary requirements when applied in this context without yielding an increase in the value of the data. The proposed certification states that the DR has "personally examined, and [is] familiar with, the statements and information submitted in this document and all its attachments" and that "[b]ased on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief, true, accurate, and complete." (emphasis added) Id. § 98.4(c). This provision mirrors the certification requirements in Title IV of the CAA, which included an explicit statutory requirement for certification by a Designated Representative. See, 42 U.S.C. § 7651(26). The statutory language authorizing the Proposed Rule contains no similar requirement. Moreover, EPA explained the rationale for these requirements in the Preamble to the Title IV Acid Rain regulations noting that "disputes between multiple owners or operators concerning their separate liability" and removing barriers to allow EPA to "authorize some of the more flexible compliance options." 56 Fed. Reg. 63002, 63009 (December 31, 1991). With respect the Proposed Rule, the rationale provided for this language is that it would "simplify the administration of the program while ensuring accountability of an owner or operator .... " 74 Fed. Reg. 16473. Unlike the Acid Rain regulations, the concerns with administration of a program applicable to multiple owners and operators at one source and the need to assign liability with respect to emissions limits or control requirements are not present in this case. Moreover, the requisite degree of accountability can be ensured with language that is more consistent with certifications used in other programs. INVISTA acknowledges EPA's stated purpose to "provide comprehensive and accurate data" to "inform future climate change policies." Id. at 16456. While these future policies may contain emissions limits and control requirements, the scope of the current proposal is limited to collecting data on GHG emission estimates through source reporting and self-certification of those reports. In contrast, the Title IV programs on which the current certification language is modeled contain both reporting and compliance elements. Even under Title V of the CAA, in which the certification serves a validation and accountability function with respect to literally hundreds of compliance obligations for some sources, the certification requirement is less stringent. It incorporates a "reasonable inquiry" (versus personal examination and an inquiry without condition) by a Responsible Official (RO), without a binding agreement with EPA required to designate (versus a Designated Representative). Title V also allows reliance by the RO on individuals within the organization who are responsible for, or who actually perform, data acquisition. The Proposed Rule appears to require far more with respect to both the process to identify an individual to make the certification and the scope and degree of inquiry the individual

must perform. Another reporting-only rule, the Toxic Chemical Release (TRI) Report, provides a better model in this case. It contains the following certification: "I hereby certify that I have reviewed the attached documents and, to the best of my knowledge and belief, the submitted information is true and complete and that amounts and values in this report are accurate based upon reasonable estimates using data available to the preparer of the report." 40 CFR §372.85(b). The TRI report and Title V compliance certifications contain standards of "reasonable estimates" and "reasonable inquiry," respectively. In addition to ensuring the requisite level of accuracy for a reporting-only rule, these concepts would account for the inherent limitations around data accuracy and precision of the required estimates, such as fuel consumption or percentage of a hazardous residue in a waste stream while providing the appropriate level of assurance In light of the foregoing, INVISTA requests that EPA replace the requirements for "personal examination" and inquiry (without any modifier) with a "reasonable estimates" standards similar to that used in the TRI reporting rule or a "reasonable inquiry" standard similar to that used in Title V. Consistent with the TRI rules and Title V, INVISTA also requests that EPA eliminate the requirement for a "Designated Representative" and instead require certification by a "senior management official," as in the TRI regulations, or a Responsible Official, as in Title V.

Response: See the preamble Section V.B.1 response on Certification Statement. See also the response on this issue in EPA-HQ-OAR-2008-0508-0406.1, Excerpt 1.

Commenter Name: Carol E. Whitman
Commenter Affiliation: National Rural Electric Cooperative Association (NRECA)
Document Control Number: EPA-HQ-OAR-2008-0508-0483.1
Comment Excerpt Number: 4

Comment: §98.2(a) of the draft rule states: The GHG emissions reporting requirements, and related monitoring, recordkeeping and verification requirements, of this part apply to the owners and operators of any facility that meets the requirements of either paragraph (a)(1), (a)(2), or (a)(3) of this section; and any supplier that meets the requirements of paragraph (a) (4) of this section. §98.4(b) of the draft rule further states: The designated representative of the facility shall be selected by an agreement binding on the owners and operators and shall act in accordance with the certification statements in paragraph (i)(4) of this section. We urge EPA to maintain this approach in the final rule. The language in §98.2(a) provides appropriate flexibility for selecting the designated representative, and the language requiring the binding agreement in §98.4(b) ensures that all parties have a role in determining the designated representative and have a clear understanding of where the reporting responsibility lies. We suggest, however, that EPA make clear that the owners and operators can choose any person to be their Designated Representative (DR). Specifically, it should be made clear that the definition of the DR under this program for GHG reporting is not any narrower than the definition of DR under the ARP and does not require the DR to have any additional authorities or duties not contemplated by the ARP rules.

Response: See the Preamble Section V.B.1 response on Designated Representatives. See also the response to EPA-HQ-OAR-2008-0508-0473.1, excerpt 8.

Commenter Name: Darren Smith
Commenter Affiliation: Devon Energy Corporation (Devon)
Document Control Number: EPA-HQ-OAR-2008-0508-0485.1
Comment Excerpt Number: 7

Comment: The proposed regulation currently states that “each owner or operator that is subject to this part shall have one and only one designated representative responsible for certifying and submitting GHG emissions reports...under this part. This is problematic because in the vast majority of independent oil and gas production companies, there is different operational management over different geographically located onshore, offshore and midstream facilities. The responsibility of the single “designated representative” as proposed would necessarily fall on a senior officer with companywide authority. It is unlikely that this person could be intimately familiar with the operations of affected facilities. A better solution would be if EPA allowed each owner or operator to have the certification made by a designated representative with operational or regulatory compliance responsibility for each affected facility or a group facilities subject to the GHG Mandatory Reporting Rule. This would put the certification responsibility at the more appropriate plant manger or superintendent level where facility emission certifications are typically handled. Appropriately, the responsible official under 40 CFR part 70 should be adopted to replace the designated representative in this proposed rule. This definition of responsible official is already being used in our industry and these same people are appropriate for certifying reports under this proposed rule. Other benefits of adopting the part 70 responsible official over designated representative include: 1. Reduce the administrative burden of maintaining the designated representative certification document and resubmit with 30 days after an owners/operators change. 2. Eliminates the need to locate each facility’s owners and have them vote on the facility’s designated representative. As proposed, the voting must be unanimous in favor of a single representative before the EPA will accept an emissions report from a facility. A submitting entity, acting in good faith could be subject to enforcement if a single owner or operator isn’t represented in the certification. Further, this would be infeasible if basin/field wide reporting becomes a requirement because of the sheer numbers of owners/operators (“partners”) and the frequency at which owners change in E&P operations. 3. Existing Clean Air Act enforcement penalties for a responsible official that intentionally misreports emission data will ensure that quality data is submitted to the EPA. Creating a new Designated Representative doesn’t improve this. In addition, the certification a designated representative will be required to sign should be changed in the proposed rule from a certification based on the personal knowledge and examination of the designated representative to a certification made to the best of the designated representative’s knowledge and belief based on reasonable inquiry. This is the certification required under other EPA air and water programs and there does not appear to be any compelling reason for EPA to proposed a different, more stringent certification requirement.

Response: See the preamble Section V.B.1 response on Designated Representative. See also the response on this issue in EPA-HQ-OAR-2008-0508-0406.1, excerpt 1.

Commenter Name: Paul R. Pike
Commenter Affiliation: Ameren Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0487.1
Comment Excerpt Number: 7

Comment: The proposal requires that each annual emissions report include a signed certification statement by the "designated representative" ("DR-C") of the owner or operator. The proposed definition of designated representative states that this be: “... an individual having responsibility for the overall operation of the facility or activity such as the position of the plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company.”

This definition is significantly narrower than the definition of "designated representative" under the ARP ("DR-A"), which states: “...means a responsible natural person authorized by the owners and operators of an affected source and of all affected units at the source or by the owners and operators of a combustion source or process source, as evidenced by a certificate of representation submitted in accordance with subpart B of this part, to represent and legally bind each owner and operator, as a matter of Federal law, in matters pertaining to the Acid Rain Program.” EPA explained in its 1991 ARP proposal, that the DR-A is not required to have any additional authorities or duties not contemplated by the CAA or the ARP. Thus the owners and operators can choose any person to be their DR-A. Ameren is concerned that by establishing additional requirements for DR-Cs under this program, facilities with DR-As could be required to either change their DR-A to meet the definition under this rule (contrary to EPA’s and Congress’ intent) or identify an additional person to certify data already certified by the DR-A. If EPA intends the DR-C to be responsible for making certifications with respect to data collected under Part 75, EPA must conform the definition of DR-C to the definition of DR-A. Any other result would interfere with electric generating facilities’ choice of individuals to take responsibility for certifying data under Part 75. Conforming the definitions also is necessary in order to allow DR-As to make submissions under this program using their existing electronic signature authorizations as EPA suggests in the preamble. 74 Fed. Reg. at 16594. EPA’s proposed rule also fails to take into account the need for "agents" to make electronic submissions on behalf of the DR-C. EPA proposes not only to allow, but to mandate electronic submission of data under the rule. Experience with electronic reporting under Part 75 has shown that DR-As are often not the appropriate person to perform the tasks associated with the actual electronic submittal (as opposed to certification of the data). EPA interpreted its rules as allowing for the use of agents to make submittals and eventually revised Parts 72 and 96 to explicitly allow for the use of "agents" by DR-As and NOx authorized account representatives. EPA should include a similar provision in this rule.

Response: See the preamble Section V.B.1 response on Designated Representative. See also the response on this issue in EPA-HQ-OAR-2008-0508-0406.1, excerpt 1.

Commenter Name: Lauren E. Freeman
Commenter Affiliation: Hunton & Williams LLP
Document Control Number: EPA-HQ-OAR-2008-0508-0493.1
Comment Excerpt Number: 11

Comment: Under proposed § 98.3(c), each annual emissions report must include a signed certification statement by the “designated representative” of the owner or operator. Under proposed § 98.4(a), the designated representative must be: "... an individual having responsibility for the overall operation of the facility or activity such as the position of the plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company." This definition is significantly more narrow than the definition of “designated representative” (“DR”) under the ARP, which provides: "Designated representative means a responsible natural person authorized by the owners and operators of an affected source and of all affected units at the source or by the owners and operators of a combustion source or process source, as evidenced by a certificate of representation submitted in accordance with subpart B of this part, to represent and legally bind each owner and operator, as a matter of Federal law, in matters pertaining to the Acid Rain Program..." 40 C.F.R. § 72.2. As EPA explained in its 1991 ARP proposal, the DR under the ARP is not required to have any additional authorities or duties not

contemplated by the CAA or the ARP rules (e.g., the designated representative could, but would not have to be, the plant manager). 56 Fed. Reg. 63,002, 63,009 (Dec. 3, 1991). Thus the owners and operators can choose any person to be their DR.[Footnote: EPA took a similarly flexible position when defining "NOx authorized account representative" for purposes of certifying submissions under the NBP and CAIR at 40 C.F.R. Part 96, allowing any natural person to fill the role.] UARG is concerned that by establishing additional requirements for DRs under this program, facilities with DRs under the ARP could be required either to change their ARP DR to meet the definition under this rule (contrary to EPA's and Congress' intent), or to identify an additional person to certify data already certified by the DR under the ARP. EPA dealt with a similar issue in its rulemaking to implement the Title V Operating Permits Program. In that rulemaking, EPA proposed to define "responsible official" -- the official who is required to certify submissions under that program -- much more narrowly than DR and to specify (consistent with the definition of DR in the ARP) that the term 'responsible official' was deemed to refer to the DR only with regard to matters under the ARP. Proposed definition of "designated representative, § 70.2, 56 Fed. Reg. 21,712, 21,768 (May 10, 1991). In the final rule, however, EPA broadened the definition to provide that "responsible official" for Title V purposes means for ARP "affected sources" the ARP DR, not only for actions under the ARP, but also "for any other purpose under part 70 [i.e., the Title V regulations]." Final definition of "responsible official," § 72.2, 57 Fed. Reg. 32,250, 32,297 (July 21, 1992). To the extent EPA intends the DR under this program to be responsible for making certifications with respect to data collected under Part 75, EPA must conform the definition of DR under this rule to the definition of DR under the ARP. Any other result would unreasonably interfere with electric generating facilities' choice of individuals to take responsibility for certifying data under Part 75. Conforming the definitions also is necessary in order to allow ARP DRs to make submissions under this program using their existing electronic signature authorizations as EPA suggests in the preamble. 74 Fed. Reg. at 16,594.

Response: See the response on EPA-HQ-OAR-2008-0508-0473.1, Excerpt 8.

Commenter Name: Bob Dinneen
Commenter Affiliation: Renewable Fuels Association (RFA)
Document Control Number: EPA-HQ-OAR-2008-0508-0494.1
Comment Excerpt Number: 16

Comment: RFA notes that the proposal is intended to collect information for future policy making, not to establish compliance with any regulation under the Act. The methods imposed are largely based on estimates. Under the Toxic Release Inventory regulations, EPA requires "[s]ignature of a senior management official certifying the following: 'I hereby certify that I have reviewed the attached documents and, to the best of my knowledge and belief, the submitted information is true and complete and that amounts and values in this report are accurate based upon reasonable estimates using data available to the preparer of the report.'" 40 C.F.R. § 372.85(b). EPA recognized that, because the calculations are based on estimates, a reasonable standard should be required. 53 Fed. Reg. 4500, 4512 (Feb. 16, 1988). EPA should use similar certification requirements here.

Response: See the preamble Section V.B.1 response on Certification Statement. See also the response on this issue in EPA-HQ-OAR-2008-0508-0406.1, Excerpt 1.

Commenter Name: Bob Dinneen
Commenter Affiliation: Renewable Fuels Association (RFA)
Document Control Number: EPA-HQ-OAR-2008-0508-0494.1
Comment Excerpt Number: 17

Comment: The designated representative requirements in the Proposed Rule place undue risks on the person making the certification and add unnecessary burdens on the facility. For example, the proposal requires that the designated representative be identified through an "agreement binding on the owners and operators" to specifically identify a particular individual, requiring updates any time there is a personnel change. Proposed Section 98.4. The Proposed Rule also provides for an alternate designated representative, but states that "... any representation, action, inaction, or submission by the alternate designate representative shall be deemed to be a representation, action, inaction or submission by the designated representative." Proposed Section 98.4(f)(1). The designated representative may have legitimate reasons not to be available to certify the report, and should not be required to be accountable for reporting he or she is not able to review ahead of time. Finally, it is unclear why separate requirements for a "certificate of representation" or personal examination of every document is needed in this case.

Response: For the response on the "personal examination" requirement, see the preamble Section V.B.1 response on Certification Statement.. For the response on designated representative see the preamble Section V.B.1 response on Designated Representatives.

Commenter Name: Leslie Sue Ritts
Commenter Affiliation: National Environmental Development Association
Document Control Number: EPA-HQ-OAR-2008-0508-0504.1
Comment Excerpt Number: 17

Comment: Proposed §98.4 requires that each facility register with the Agency a "designated representative" who must sign and certify that he or she has personal knowledge of the truth and accuracy of the GHG emissions calculations and reports submitted by a facility and that the information contained in the report is true and accurate, based on a reasonable inquiry of individuals responsible for obtaining the information. Id., at 16463. A "Designated Representative" is defined as a "representative of the facility ... selected by an agreement binding on the owners and operators and shall act in accordance with the certification statements in paragraph (i)(4) of this section. The designated representative must be an individual having responsibility for the overall operation of the facility or activity such as the position of the plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company." Further, proposed § 98.4(e)(1) provides 'that all GHG reports must be signed by a Designated Representative after the following statement "I am authorized to make this submission on behalf of the owners and operators of the facility (or supply operation, as appropriate) for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.' NEDA/CAP has a number of objections to the proposed requirement that GHG reports be signed and certified by a

Designated Representative at affected facilities. NEDA's members also are concerned about the additional administrative "licensing" requirements with EPA that "designating" a "representative" would entail under the proposal, which could make submission of a required report untimely even though other responsible officials are fully capable of certifying the truth, accuracy and completeness of the reports. We also dispute the administrative simplicities and associated advantages suggested in the preamble that are offered in support of such an official's designation, which seem to boil down to electronic signature requirements. Id., at 16594. Most important, EPA has failed to state a basis for why certifications by responsible officers are not acceptable for GHG reporting but are acceptable for many other environmental programs, which carry significant company and personal liability for false or incomplete certifications of the truth, completeness and accuracy of emissions reports. NEDA/CAP believes that EPA has based the proposed requirement for a "Designated Representative" on requirements in the acid rain program. Under those requirements, a "Designated Representative" who not only certifies emission reports but also certifies to EPA and various commodity markets that the company has the necessary annual allocations to operate and excess annual allocations available for sale. No such requirements exist in the proposed reporting rule. Also, it should be pointed out that there are many more manufacturing facilities than affected acid rain sources, and that EPA has failed to consider the significant legal resources necessary for contractually obligated facility managers, to be the facility's "designated representative." Second, the proposal fails to acknowledge that these individuals at facilities may move between facilities much more frequently that at electric generating companies and the failure to have submitted the necessary legal information about an individual to EPA could prevent a timely filing under the proposal. Second, NEDA/CAP's members do not believe that the proposed contracts between companies and the proposed "Designated Representative" is necessary for securing a valid certification that information has been obtained based on a reasonable inquiry and that GHG emission reports are true, accurate and complete. Nor do we believe that such requirements are necessary, as provided in proposed section 98.4 (c) "to bind legally" a company, because they obviously are not necessary under other CAA reporting or under TRI, SPCC or other environmental programs. Finally, we reject the unsupported notion in the preamble of this proposal that simply because EPA has proposed that there be an electronic reporting/electronic signature required for GHG reporting, that "Designated Representatives" are either reasonable or necessary as a legal matter. As a far more reasonable alternative, NEDA/CAP submits that the personal certifications of current "responsible officers" under CAA programs such as the Title V operating permit program are less onerous and equally reliable as EPA's proposal for "Designated Representatives." NEDA/CAP submits that the civil and criminal penalties already associated under other CAA programs are more than sufficient to protect the buyer or third party marketing such emissions. NEDA/CAP urges EPA to rethink this provision because it appears to be unnecessary for purposes of emissions reporting, and it will add further to the burden of certifying emissions reports without adding to the integrity of those reports. These requirements are far more onerous that similar reporting requirements under similar environmental programs which are based on self-certifications. The Title V program requires a certification of data by a "responsible official", which also carries as much, if not more far-reaching. Compliance obligations. Although the evolution of the requirement for a designated representative is tied to the auction and marketing of acid rain credits, and may or may not have a place in marketing and trading GHG allowances or credits, we think it is not justified for purposes of reporting GHG emissions. Under Title V and nearly every other CAA program, a source's emissions and compliance reports as well as permit applications, are signed by a "responsible officer" who is required to certify the accuracy and completeness of required reports and other documentations. Since these are the very same requirements for verification of GHG emission reports, it is unclear why EPA would differentiate between responsible officers,4 who are subject to the civil and criminal

penalties in the CAA, and "designated representatives" under the proposed rule. Moreover, since plant managers do change at facilities, we doubt that EPA has factored in the legal and work requirements in transferring such responsibilities within a company or if the requirement was to be implemented on a company-wide basis, or the cost associated with individuals acquiring the personal information that would be required under the proposed definition to sign these annual documents. Further, we believe that requiring an additional level of qualification for GHG emission reporting than for other CAA reporting necessarily implies some lower degree of confidence in responsible officers under other CAA programs, or worse some lower competence, of which both conclusions would be improper and untrue. For these reasons, NEDA/CAP urges EPA to rethink and withdraw the requirements for signatures by "designated representatives" on GHG reports from the final rule and preserve the consistency of this reporting program with other self-certifying CAA programs as those described above. [Footnote: Note, the Clean Air Act Amendments of 1990 make clear that only certain individuals in company management may serve as a "responsible corporate official" for purposes of certification. See 42 U.S.C. §7661c(c).]

Response: For the response on definition of the designated representative, see EPA-HQ-OAR-2008-0508-0473.1, Excerpt 8. For the response on the suggestion of using a "responsible officer" and on the certification of emissions, see the preamble Section V.B.1 response on Certification Statement.

Commenter Name: D. Lawrence Zink
Commenter Affiliation: Montana Sulphur & Chemical Company Inc. (MSCC)
Document Control Number: EPA-HQ-OAR-2008-0508-0505.1
Comment Excerpt Number: 18

Comment: EPA provides for the designation of one (and only one) representative to sign/certify reports; typically the plant operator or person with authority over the facility. However, EPA also provides that once a representative has been designated to EPA he/she remains so designated until a successor appointment is received. This is inappropriate and unnecessary. A previously designated representative, if no longer in authority over the facility, is also in no position to cause a successor to be named, to continue oversight of report preparation, nor to continue signing current reports. The facilities might be required instead to identify and designate an appropriate representative at the time of each report, and that representative should be either a) one designated by the owner/operator in accordance with the rules and the authority structure of the entity, or b) by default the owner (if a person) or the chief executive officer of the entity, or in the absence of such, other agent for receipt of lawful service. Except possibly to note the resignation or removal of a representative, there should be no necessity to further notify EPA as notification would occur with each annual report. There certainly is no reasonable basis for producing a fiction that a prior designee, who may have been removed, quit, transferred or even died, is forever the appropriate person for further communication of orders between EPA or the courts and the facility itself.

Response: The regulation requires that each facility and each supplier have one (and only one) Designated Representative (DR), but may also have one Alternate Designated Representative (ADR). The owner and operator may change the DR and/or ADR at any time through the submission of a new Certificate of Representation (CoR). Upon receipt of a complete CoR, the new designations will take effect.

The DR is the point of contact for the MRR and EPA will contact the DR with questions about submissions and information about program changes. It is therefore essential to the smooth operation of the program that each facility and each supplier have an up-to-date DR designation at all times, not only when submitting an annual report. See the preamble Section V.B.1 response on Designated Representatives.

Commenter Name: W. Walter Tyler
Commenter Affiliation: INVISTA S.a r.l. (INVISTA)
Document Control Number: EPA-HQ-OAR-2008-0508-0481.2
Comment Excerpt Number: 3

Comment: The self-certification provision in the Proposed Rule requires that each report be certified by a "Designated Representative" who has responsibility for the overall operation of the facility and who must "be selected by agreement binding on the owners and operators." Proposed 40 CFR § 98.4. Although this certification language has been used in other contexts, it imposes unnecessary requirements when applied in this context without yielding an increase in the value of the data. The proposed certification states that the DR has "personally examined, and [is] familiar with, the statements and information submitted in this document and all its attachments" and that "[b]ased on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief, true, accurate, and complete." (emphasis added) Id. § 98.4(c). This provision mirrors the certification requirements in Title IV of the CAA, which included an explicit statutory requirement for certification by a Designated Representative. See, 42 U.S.C. § 7651(26). The statutory language authorizing the Proposed Rule contains no similar requirement. Moreover, EPA explained the rationale for these requirements in the Preamble to the Title IV Acid Rain regulations noting that "disputes between multiple owners or operators concerning their separate liability" and removing barriers to allow EPA to "authorize some of the more flexible compliance options." 56 Fed. Reg. 63002, 63009 (December 31, 1991). With respect the Proposed Rule, the rationale provided for this language is that it would "simplify the administration of the program while ensuring accountability of an owner or operator .... " 74 Fed. Reg. 16473. Unlike the Acid Rain regulations, the concerns with administration of a program applicable to multiple owners and operators at one source and the need to assign liability with respect to emissions limits or control requirements are not present in this case. Moreover, the requisite degree of accountability can be ensured with language that is more consistent with certifications used in other programs. INVISTA acknowledges EPA's stated purpose to "provide comprehensive and accurate data" to "inform future climate change policies." Id. at 16456. While these future policies may contain emissions limits and control requirements, the scope of the current proposal is limited to collecting data on GHG emission estimates through source reporting and self-certification of those reports. In contrast, the Title IV programs on which the current certification language is modeled contain both reporting and compliance elements. Even under Title V of the CAA, in which the certification serves a validation and accountability function with respect to literally hundreds of compliance obligations for some sources, the certification requirement is less stringent. It incorporates a "reasonable inquiry" (versus personal examination and an inquiry without condition) by a Responsible Official (RO), without a binding agreement with EPA required to designate (versus a Designated Representative). Title V also allows reliance by the RO on individuals within the organization who are responsible for, or who actually perform, data acquisition. The Proposed Rule appears to require far more with respect to both the process to identify an individual to make the certification and the scope and degree of inquiry the individual must perform. Another reporting-only rule, the Toxic Chemical Release

(TRI) Report, provides a better model in this case. It contains the following certification: "I hereby certify that I have reviewed the attached documents and, to the best of my knowledge and belief, the submitted information is true and complete and that amounts and values in this report are accurate based upon reasonable estimates using data available to the preparer of the report." [40 CFR §372.85(b).] The TRI report and Title V compliance certifications contain standards of "reasonable estimates" and "reasonable inquiry," respectively. In addition to ensuring the requisite level of accuracy for a reporting-only rule, these concepts would account for the inherent limitations around data accuracy and precision of the required estimates, such as fuel consumption or percentage of a hazardous residue in a waste stream while providing the appropriate level of assurance In light of the foregoing, INVISTA requests that EPA replace the requirements for "personal examination" and inquiry (without any modifier) with a "reasonable estimates" standards similar to that used in the TRI reporting rule or a "reasonable inquiry" standard similar to that used in Title V. Consistent with the TRI rules and Title V, INVISTA also requests that EPA eliminate the requirement for a "Designated Representative" and instead require certification by a "senior management official," as in the TRI regulations, or a Responsible Official, as in Title V.

Response: See the preamble Section V.B.1 response on Certification Statement. See also the response on this issue in EPA-HQ-OAR-2008-0508-0406.1, Excerpt 1.

Commenter Name: Leslie Bellas
Commenter Affiliation: National Lime Association (NLA)
Document Control Number: EPA-HQ-OAR-2008-0508-0520.1
Comment Excerpt Number: 44

Comment: The requirement in 40 C.F.R. § 98.4(h) to provide notice to EPA within 30 days of any change in owners and operators is unnecessary. This information could be included in the annual report. Revise 40 C.F.R. § 98.4(h) to require the annual report to identify any change in facility ownership.

Response: EPA agrees that reporters should be allowed more time than 30 days to update changes in owners or operators but does not agree that doing so in the annual report is sufficient. See the preamble Section V.B.2 response on Certificate of Representation.

Commenter Name: Leslie Bellas
Commenter Affiliation: National Lime Association (NLA)
Document Control Number: EPA-HQ-OAR-2008-0508-0520.1
Comment Excerpt Number: 39

Comment: Sources Should Have Flexibility to Choose The Designated Representative(s) (40 C.F.R. § 98.4(b)). 40 C.F.R. § 98.4(b) provides that the designated representative be a person with overall responsibility for operation of a facility or overall responsibility of environmental matters for a company. The provision is much too restrictive and it denies the source the ability to appoint the best qualified employee, including highly qualified plant environmental or sustainability staff that is responsible for assuring compliance with environmental permits, submitting permit applications, and developing and implementing compliance plans. 40 C.F.R. § 9 8.4(b) should be revised to incorporate the Clean Air Act's definition of "designated representative" or "alternate designated representative." 42 U.S.C. § 7630(26) (1990), which

allows a "responsible person(s) or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the submission of and compliance with environmental permits, permit applications, and compliance plans for the unit."

Response: See the response to EPA-HQ-OAR-2008-0508-0473.1, excerpt 8.

Commenter Name: Leslie Bellas
Commenter Affiliation: National Lime Association (NLA)
Document Control Number: EPA-HQ-OAR-2008-0508-0520.1
Comment Excerpt Number: 40

Comment: 40 C.F.R. § 98.4(a) states that each owner or operator "shall have one and only one designated representative responsible for certifying and submitting GHG emissions reports." On the other hand, 40 C.F.R. § 98.4(b) refers to the "designated representative of the facility." NLA requests EPA to clarify whether the Proposed Rule requires one representative per company to submit a single report on behalf of all covered facilities owned and/or operated by the Company, or must each facility have a separate designated representative submit a report. NLA proposes that sources be allowed to decide on a case-by-case basis whether qualified corporate or facility personnel should submit the report for a particular facility.

Response: See the preamble Section V.B.1 response on Designated Representative.

Commenter Name: Leslie Bellas
Commenter Affiliation: National Lime Association (NLA)
Document Control Number: EPA-HQ-OAR-2008-0508-0520.1
Comment Excerpt Number: 41

Comment: 40 C.F.R. § 98.4(b) requires the designated representatives to submit a "Certificate of Representation" as described in 40 C.F.R. § 98.4(i). It seems unnecessary to require a certificate of representation for those designated representatives directly employed by the owner or operator, but a certificate of representation may be appropriate for a third party serving as the designated representative. Limit the requirement to submit a "certificate of representation" to those "designated representatives" not directly employed by the company.

Response: EPA disagrees with the commenter. The final rule provides flexibility for the owners and operators to choose any individual, employee or non-employee, as their designated representative. However, the owners and operators are ultimately responsible for compliance with the requirements of reporting rule. The certificate of representation is required for every facility or supplier for a number of reasons, including, for example: to identify, to the Administrator and the public, what individual has been selected as the designated representative and alternate and what entities are the owners and operators; to ensure that the designated representative and alternate were properly selected and have the necessary authority; and to provide a way of changing these selections and informing the Administrator and the public of any changes in the selections or in the owners and operators. The fact that a designated representative is directly employed by the owners and operators does not remove these reasons for requiring a certificate of representation. See also the preamble Section V.B.1 response on Designated Representatives.

Commenter Name: Leslie Bellas
Commenter Affiliation: National Lime Association (NLA)
Document Control Number: EPA-HQ-OAR-2008-0508-0520.1
Comment Excerpt Number: 43

Comment: 40 C.F.R. § 98.4(c) suggests that all decisions and orders from EPA shall be issued to the designated representative. The language could be interpreted to imply that the designated representative could be responsible for complying with any orders or decisions issued by EPA. Revise 40 C.F.R. § 98.4(c) to clarify that "The owners and operators shall be bound by any decision or order issued to the company by the Administrator or a court."

Response: See Response to EPA-HQ-OAR-2008-0508-1568, excerpt number 9.

Commenter Name: Leslie Bellas
Commenter Affiliation: National Lime Association (NLA)
Document Control Number: EPA-HQ-OAR-2008-0508-0520.1
Comment Excerpt Number: 42

Comment: 40 C.F.R. § 98.4(g) states that the actions, inactions, and submittals of a previous designated representative are binding on the new representative and company. It is unreasonable to subject a new designated representative to the "penalty of law" for the actions of his predecessor. The Proposed Rule should follow the Western Climate Initiative's interpretation that the owner/operator, and not the new designated representative, is subject to the penalty of law for the actions of the previous designated representative. A new designated representative should not be personally liable for the acts of his/her predecessor. 40 C.F.R. § 98.4(g) should be revised to states that the actions, inactions, and submittals of the prior designated representative are "binding on the owners and operators."

Response: The commenter interprets the rule provision that a previous designated representative's actions, inactions, and submissions are binding on a new designated representative as imposing personal liability on the new designated representative for acts of the predecessor designated representative. Based on this interpretation, the commenter objects to the rule provision. The commenter's interpretation is not correct, and EPA therefore rejects the commenter's objection and suggested rule language change. The provision does not state that the new designated representative is personally liable for any violations by his predecessor, but rather provides that the new designated representative is bound by the substance of those acts to the same extent that the predecessor would be bound. (Under the provision, the predecessor's actions are, of course, also binding on the owners and operators.) For example, elections made by the predecessor concerning the monitoring method used are binding on the new designated representative, who continues to be bound by such election unless he submits a new election, consistent with the applicable monitoring provisions. The rule provision does not change, with regard to the designated representative, the generally applicable approaches to determining civil or criminal liability.

Commenter Name: Shannon Broome
Commenter Affiliation: Air Permitting Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0524.1
Comment Excerpt Number: 5

Comment: It is worth noting, however, that the proposal is intended to collect information for future policy making, not to establish compliance with any regulation under the Act. The methods imposed are largely based on estimates. Under the Toxic Release Inventory regulations, EPA requires "[s]ignature of a senior management official certifying the following: 'I hereby certify that I have reviewed the attached documents and, to the best of my knowledge and belief, the submitted information is true and complete and that amounts and values in this report are accurate based upon Air Permitting Forum Comments Greenhouse Gas Reporting – Proposed Rule Page 4 of 5 reasonable estimates using data available to the preparer of the report." 40 C.F.R. § 372.85(b). EPA recognized that, because the calculations are based on estimates, a reasonable standard should be required. 53 Fed. Reg. 4500, 4512 (Feb. 16, 1988). EPA should use similar certification requirements here or should adopt the current Title V certification language that "based on information and belief formed after reasonable inquiry," the statements in the document are "true, accurate, and complete."

Response: See the preamble Section V.B.1 response on Certification Statement.

Commenter Name: Shannon Broome
Commenter Affiliation: Air Permitting Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0524.1
Comment Excerpt Number: 7

Comment: The proposed approach is also inconsistent with the approach in the Title V program, which allows for a "position" to be identified as the responsible official. This problem is not adequately addressed by the Proposed Rule's provision for an alternate designated representative, particularly since it states that "... any representation, action, inaction, or submission by the alternate designate representative shall be deemed to be a representation, action, inaction or submission by the designated representative." Proposed Section 98.4(f)(1). The designated representative may have legitimate reasons not to be available to certify the report, and should not be required to be accountable for reporting he or she is not able to review ahead of time. Finally, it is unclear why separate requirements for a "certificate of representation" or personal examination of every document are even needed for GHG reporting.

Response: For the response on the responsible official, see the preamble Section V.B.1 response on Designated Representative. See also the response to EPA-HQ-OAR-2008-0508-0679.1, Excerpt 45. For the response to requirements on the certification statement, see the preamble Section V.B.1 response on Certification Statement.

Commenter Name: Shannon Broome
Commenter Affiliation: Air Permitting Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0524.1
Comment Excerpt Number: 6

Comment: The designated representative requirements in the Proposed Rule place undue liability on the person making the certification and add unnecessary burdens on the facility. For example, the proposal requires that the designated representative be identified through an "agreement binding on the owners and operators" to specifically identify a particular individual, requiring updates any time there is a personnel change. Proposed Section 98.4. We understand that this approach is based on the Acid Rain program but do not believe that it is appropriate for the GHG reporting rule. In the Acid Rain program, emission allowances are being bought and sold and such transactions have significant compliance and financial implications, warranting a higher level of certification. The information being certified here is being used to help develop a future regulatory program.

Response: See Response to EPA-HQ-OAR-2008-0508-0712.1 Excerpt 25

Commenter Name: Robert Rouse
Commenter Affiliation: The Dow Chemical Company
Document Control Number: EPA-HQ-OAR-2008-0508-0533.1
Comment Excerpt Number: 16

Comment: Many Dow sites that will be subject to this rule are also subject to Title V Operating Permit requirements. These Dow sites use an established program of having a Responsible Official and Duly Authorized Representatives certify the truth and accuracy of various submittals to State Title V Permitting authorities. Dow recommends that EPA allow the owner/operator to use the same system employed for Title V purposes for certifying and submitting GHG reports to EPA, in lieu of the proposed section on Designative Representative. The Title V reporting system is an established process as it has been used for the Title V Operating Permitting for over 10 years in many states.

Response: See the preamble Section V.B.1 response on Certification Statement

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Commenter Name: Dean C. DeLorey
Commenter Affiliation: Beet Sugar Development Foundation (BSDF) Environmental Committee
Document Control Number: EPA-HQ-OAR-2008-0508-0559.1
Comment Excerpt Number: 17

Comment: The "designated representative" language appears to be designed to encourage legal review and challenges. We recommend using similar language from other existing programs: "I certify that, based on information and belief formed after reasonable inquiry, the statements and information in this submittal are true, accurate and complete" in order to simplify the process, achieve the same goal, and reduce potential legal grandstanding.

Response: See the preamble Section V.B.1 response on Certification Statement.

Commenter Name: Thomas M. Ward
Commenter Affiliation: Novelis Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0561.1
Comment Excerpt Number: 15

Comment: Although Novelis supports the self-certification provision, we are concerned with the proposed requirement to certify a "designated representative ... by an agreement binding on the owners and operators" and to update such certifications with each new Plant Manager. In our view, certification by a "Responsible Official" according to certification language under the Title V Operating Permit program (40 CFR Part 70) should be more than adequate for the proposed emissions reporting rule. Furthermore, most of the facilities subject to the proposed GHG reporting program already have identified a "responsible official" for either Title V Operating Permits and/or other State permit program obligations. Requiring submission of a separate and duplicate binding certification just for GHG reporting is an unnecessary bureaucratic burden that should be revised in the final rule.

Response: See the preamble Section V.B.1 response on Certification Statement

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Commenter Name: Ram K. Singhal
Commenter Affiliation: Rubber Manufacturers Association (RMA)
Document Control Number: EPA-HQ-OAR-2008-0508-0600
Comment Excerpt Number: 13

Comment: The proposal requires that facilities or a company register with the federal government a “designated representative” who will be required to acquire, review and attest personally to all information that is collected and submitted about GHG emissions to EPA; hence this individual would certify reports of GHG emissions annually. Federal EPA permission will be required to re-designate the company’s or facility’s “designated representative.” According to the preamble, this proposed requirement is modeled after the acid rain program requirements, and the underlying Congressional legislation that provided for the buying and selling of allocated acid rain allowances. EPA urges EPA to rethink this requirement. First, it is not clear that such a mechanism is required for sales, if such sales are going to occur, to be legally binding. But at the outset of a recordkeeping and reporting program, the requirement for a designated representative seems both unreasonable and unnecessary given the responsibilities under the Clean Air Act that “responsible officials” already have. Further, it is not clear that the Agency has considered in setting forth this designated representative” requirement how many more facilities will be reporting GHG emissions in contrast to the number of electric generating systems that report and are allocated allowances under the acid rain program or the movement of these individuals within a particular company or industry. Finally, by failing to enunciate any reason for distinguishing the certification from the certification by responsible officials already required on CAA documents that state that such officials have made reasonable inquiry and thus can certify as to the completeness, truth and accuracy of the information they are providing, EPA is creating a distinct legal dilemma for plants, companies, plant managers, and the courts that is wholly avoidable. We request, therefore, that EPA rescind this proposal in favor of certification of GHG emission reports by responsible officials, as they are defined by EPA rules and Congress. Responsible officials typically have the best information available to them about facility emissions and current law provides onerous civil and criminal personal and company penalties for improper certifications.

Response: See the preamble Section V.B.1 response on Certification Statement. See also the response to EPA-HQ-OAR-2008-0508-0406.1, excerpt 1.

Commenter Name: Sarah B. King
Commenter Affiliation: DuPont Company
Document Control Number: EPA-HQ-OAR-2008-0508-0604.1
Comment Excerpt Number: 20

Comment: §98.4 sets forth the requirements for a designated representative (DR), who is responsible for certifying and submitting the GHG emissions reports for the owner/operator. We believe that this section is unnecessary and should be deleted because the proposed reporting rule does not provide allowances that could be sold or transfer from facility to facility. A DR is required in the Acid Rain Program (40 CFR Part 72), NOx Budget Program and CAIR (40 CFR 96) where commercial/business transactions are made. In these cap and trade programs, the designated representatives may access EPA's Clean Air Markets website and request allowances transfers from one facility account to another, from one facility to another facility or retire them. These commercial transactions could represent millions of dollars and may affect the owner's ability to comply with the rules' requirements. Therefore, it makes sense to have tight controls on who is legally permitted to access the accounts. For this GHG reporting rule, however, the data to be reported should be managed the same way EPA manages other reporting information such as Toxic Release Inventory.

Response: See the preamble Section V.B.1 response on Certification Statement. See also the response to EPA-HQ-OAR-2008-0508-0406.1, excerpt 1.

Commenter Name: Steven J. Rowlan
Commenter Affiliation: Nucor Corporation (Nucor)
Document Control Number: EPA-HQ-OAR-2008-0508-0605.1
Comment Excerpt Number: 36

Comment: In Section 98.4, subsections (a) and (b) contradict each other. Subsection (a) requires that each owner or operator shall have one and only one designated representative. This is an "entity" command. Subsection (b) states then that the DR "of a facility" is selected by an agreement binding upon owners or operators. This suggests that there may be DRs for each facility, but once an owner/operator agrees to a DR other than their own DR for the entity (required under (a)) at a facility, they are in violation of subsection (a) because they will now have multiple DRs for the entity. The preamble clearly suggests that EPA intends the DR to be present at the facility level. Subsection (a) should be deleted.

Response: See the preamble Section V.B.1 response on Designated Representative.

Commenter Name: Steven J. Rowlan
Commenter Affiliation: Nucor Corporation (Nucor)
Document Control Number: EPA-HQ-OAR-2008-0508-0605.1
Comment Excerpt Number: 38

Comment: In 98.4(g)-(l), the certificate of representation process is flawed because the agency seeks to remove itself to thoroughly from disputes over the DR. While Nucor agrees that the agency should not be involved, the agency may not structure the certificate of representation process to allow conversion of property held by others under the agency's auspices. The flaws flow from two provisions in particular: (1) The certificate of representation only requires the

signature, admitted under oath, of the person submitting the certificate of representation; (2) EPA takes the position that it will acknowledge nothing except a certificate of representation change; therefore (3) if a certificate of representation is submitted fraudulently, EPA would, by operation of this regulation, have converted the property to the proponent of the fraud; (4) the legitimate owners and operators can only recover the property by filing a new certificate, but (5) the fraudulent claimant may simply file a superseding certificate; and (6) EPA states, in subjection (l) that no communication will be accepted includes even the communication of a court order settling the matter. EPA should clarify that court orders will be upheld and require that the certificate of representation be cosigned by an authorized representative of the principal owner.

Response: EPA rejects the commenter's assertion that the certificate of representation provisions are flawed. The final rule provides that EPA will rely on the complete certificates of representation that the agency receives and will not adjudicate private legal disputes concerning the authorization of a designated representative. EPA is taking this approach – and has consistently taken this approach in the Acid Rain Program that started in 1995 – because EPA maintains that it does not generally have the expertise to resolve issues concerning parties' legal, equitable, and leasehold interests in facilities or suppliers and that these types of issues are likely to be involved in these types of private legal disputes. Consequently, EPA leaves resolution of these types of private legal disputes to the parties involved and, where the parties determine it appropriate, to the courts, which have extensive experience with these types of disputes. In addition, EPA does not agree with the scenario presented by the commenter of repetitive submissions of superseding certificates of representation, which has never occurred in the Acid Rain Program. Parties can seek, and the courts can provide where determined to be appropriate, a wide range of legal and equitable relief (including, for example, injunctive relief barring submission of superseding certificates or requiring or barring specified agency actions) to address these types of disputes. While the final rule states that an "objection or other communication submitted" to EPA concerning the authorization of a designated representative will not generally affect any action or submission by the designated representation, EPA maintains that the term "communications" in this context cannot be reasonably interpreted to mean orders issued by a court with jurisdiction over EPA and that the rule does not state, or in any way imply, that any such orders would have no effect or would be ignored. In addition, the CAA provides for criminal penalties for knowingly making false material statements, representation, or certifications in any document required to be filed under the CAA and thereby creates a strong disincentive against submission of fraudulent certificates. Finally, it is difficult to see how the commenter's suggestion that the certificate of representation be co-signed by an "authorized representative" of the principal owner would address the problem claimed by the commenter. The final rule already requires that the certificate of representation be signed by the representative of the principal owner, i.e., the designated representative who represents the owners and operators. If there were a problem of individuals fraudulently claiming to be, and signing a certificate of representation as, the designated representative of the owners and operators, it would seem that the same fraud would be equally likely to occur with respect to individuals claiming to be, and signing as, the principal owner's "authorized representative." Because the commenter's suggested language would not successfully address the problem claimed by the commenter and would only increase unnecessarily the burden of submitting certificates of representation, EPA rejects the suggested language.

Commenter Name: Steven J. Rowlan
Commenter Affiliation: Nucor Corporation (Nucor)
Document Control Number: EPA-HQ-OAR-2008-0508-0605.1
Comment Excerpt Number: 37

Comment: In 98.4(f), as stated in Nucor's comments on subsection 98.4(c), EPA should provide for the permanent designation of certain positions of responsibility at a facility by the facility for DR and ADR. In addition, Nucor is concerned that the way that subsection (f) is written, the designation of an ADR is dependent upon the designation of the DR (the ADR "may act on behalf of the DR"). This raises the question of whether the ADR's status is dependent upon the DR's status and whether a change in DR requires reapproval of the ADR. EPA should clearly state that this is not the case, as it is when the DR changes that the ADR is most needed to sign and certify documents in the absence of the DR.

Response: EPA rejects, as unnecessary and inappropriate, the commenter's suggested changes that would make the designation of a designated representative or an alternate "permanent" or the designation of an alternate independent of the designation of the designated representative. At the outset, EPA notes that it is unclear what is meant by a "permanent" designation; it appears that the commenter does not really suggest that a designation be permanent but rather that the alternate be able to retain his status automatically when the designated representative changes. EPA believes, and has found in its experience with implementing the Acid Rain Program, that having one individual (the designated representative) whose actions bind the owners and operators, and who is accountable for knowing about and complying with monitoring and reporting requirements, facilitates efficient resolution of monitoring and reporting related questions and issues and helps ensure data quality and consistency. The final rule allows owners and operators to have, in addition, an alternate designated representative because of the practical problem that there may be circumstances where the designated representative is unavailable. However, the designated representative is still the individual with primary accountability, and, therefore, the final rule provides that the actions of the alternate are deemed to be actions of the designated representative. The commenter's suggested changes would make the relationship between the designated representative and the alternate more complicated. EPA does not see any advantage in the commenter's suggested changes since, in the absence of these changes, a new designated representative and his alternate can quite easily be designated at the same time in the same new, certificate of representation. However, EPA sees potential disadvantages in the commenter's suggestions. For example, if an individual could be the alternate without clearly having the designated representative's consent through a new certificate of representation signed by both individuals, it may make it more difficult to hold the designated representative responsible for the alternate's actions and may effectively result in there being two individuals at the same time with primary accountability for monitoring and reporting.

Commenter Name: Dana Blume
Commenter Affiliation: Port of Houston Authority (PHA)
Document Control Number: EPA-HQ-OAR-2008-0508-0607.1
Comment Excerpt Number: 3

Comment: It is unreasonable and impractical for a designated representative to "certify" GHG emission reports for another operator or for the owner of a facility, particularly if the operations are under separate ownership and control. The designated representative may have limited or no knowledge of the other owner/operator operations, the potential GHG sources and associated

data collected for reporting, the quality and completeness of the data collected, quality and completeness of the verification, and/or the environmental matters of the other owners/operators. It is also unreasonable to require a company to assign its environmental obligations to another entity and to bind that entity and others represented by the designated representative by any "order issued to me by the Administrator or a court regarding the source or unit." The PHA respectfully requests that the EPA better define the responsibilities of owners and operators as to reporting requirements. As stated in the EPA proposed rule, "systematic measurement program of multiple and variable facility level calculations is technically difficult and expensive to implement and would be better accomplished through an empirical research program that establishes and maintains rigorous measurements over time."

Response: See the preamble Section V.B.1 response on Designated Representative. For the response on environmental obligations and orders from EPA, see the response to EPA-HQ-OAR-2008-0508-0406.1, excerpt 1.

Commenter Name: Dana Blume
Commenter Affiliation: Port of Houston Authority (PHA)
Document Control Number: EPA-HQ-OAR-2008-0508-0607.1
Comment Excerpt Number: 2

Comment: The PHA has significant concerns regarding the applicability, emission reporting, monitoring, recordkeeping, and verification requirements as they relate to the distinction between owner and operator. The PHA is the owner of multiple properties located along the Houston Ship Channel. While many of these facilities are operated as traditional port terminals that are largely unaffected by this proposed rule, some PHA owned properties are leased to industrial operators that are potentially affected by this proposed rule. In most cases, there are multiple industrial operators located at a single PHA facility. The PHA is unclear as to the compliance requirements for an owner of a facility with separate and distinct operators (and in some cases multiple operators). The proposed rule states that there shall be one designated representative for each facility. The designated representative shall be selected by the owners and operators of the facility and be responsible for "certifying" and submitting GHG emission reports. Additionally, the designated representative must be an individual having responsibility for the overall operation of the facility or activity, such as a plant manager or an individual having overall responsibilities for the environmental matters of the company.

Response: See the preamble Section V.B.1 response on Delegated Representative. See also the preamble Section V.B.2 response on Certificate of Representation.

Commenter Name: Kyle Pitsor
Commenter Affiliation: National Electrical Manufacturers Association (NEMA)
Document Control Number: EPA-HQ-OAR-2008-0508-0621.1
Comment Excerpt Number: 14

Comment: Subpart A, §98.4 of the proposed rule also imposes significant burdens with respect to certification of the emissions report. The rule requires a "designated representative" to complete, sign and certify the emissions report with the required certification statement. In completing the required certification, "the designated representative of the facility shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and

operator in all matters pertaining to this part, notwithstanding any agreement between the designated representative and such owners and operators" (Subpart A, §98.4(c)). These requirements must be met for the EPA to accept the GHG report. To the knowledge of the NEMA Carbon/Manufactured Graphite EHS Committee, these certification requirements outlined in the proposed rule go beyond what is typically required under other environmental data or emissions reports, such as under SARA. Rather than inventing new confusing legal provisions, or more onerous certification requirements, the NEMA Carbon/Manufactured Graphite EHS Committee suggests EPA use the same certification criteria for reporting estimated GHG emissions as has been established for SARA reporting. EPA has no justification for making the certification requirements for GHG reporting more stringent or onerous than the toxic substances emissions reporting requirements.

Response: See the preamble Section V.B.1 response on the Certification Statement. .

Commenter Name: Kyle Pitsor
Commenter Affiliation: National Electrical Manufacturers Association (NEMA) Magnet Wire Section
Document Control Number: EPA-HQ-OAR-2008-0508-0622.1
Comment Excerpt Number: 5

Comment: Subpart A, §98.4 of the proposed rule also imposes significant burdens with respect to certification of the emissions report. The rule requires a "designated representative" to complete, sign and certify the emissions report with the required certification statement. In completing the required certification, "the designated representative of the facility shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator in all matters pertaining to this part, notwithstanding any agreement between the designated representative and such owners and operators" (Subpart A, §98.4(c)). These requirements must be met for the EPA to accept the GHG report. The certification requirements outlined in the proposed rule go beyond what is required by Title V of the Clean Air Act. The NEMA Magnet Wire EHS Committee believes that the certification requirements for the reporting of GHG emissions should not be more onerous than the Clean Air Act permitting certification requirements. Certification requirements for GHG reporting should be satisfied by existing certification for facilities already under a Title V program.

Response: See the preamble Section V.B.1 response on the Certification Statement.

Commenter Name: Sam Chamberlain
Commenter Affiliation: Murphy Oil Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0625
Comment Excerpt Number: 7

Comment: EPA is proposing that the report contain a signed certification from a representative designated by the owner or operator of a facility affected by this rule. As such, this “Designated Representative” would act as a legal representative between the reporting facility or entity and the EPA. Murphy notes that there are many other reports within the domain of EPA that require certification as to the completeness and accuracy of both quarterly and annual reports to EPA. Murphy recommends the use of the term “Responsible Official” to be consistent with the certification terminology of Title V reports. Murphy would like to point out that creating a new

terminology, definition, etc. for the use of a “designated representative“ for this rule is both unnecessary and duplicative of current satisfactory requirements using the “Responsible Official” terminology among the regulated community.

Response: See the preamble Section V.B.1 response on the Certification Statement.

Commenter Name: Karen St. John
Commenter Affiliation: BP America Inc. (BP)
Document Control Number: EPA-HQ-OAR-2008-0508-0631.1
Comment Excerpt Number: 21

Comment: EPA incorporates a new concept called the “Designated Representative” for the certification of the GHG emissions report. As proposed, the certification obligations of the Designated Representative go beyond the certification requirements for the TRI program. As described in more detail in the comments of the API, particular provisions of the proposed rule reach beyond existing legal and contractual boundaries between owners and operators. Furthermore, the Designated Representative provisions would result in a cumbersome process and create a significant paperwork burden, particularly for entities in the oil and gas industry, where there can be frequent changes in ownership and operators and long lists of owners with small interests or royalty interests. It would be inappropriate and onerous to apply the Designated Representative language to an inventory reporting rule, particularly when other inventory reporting rules do not require this type of certification. BP recommends that the certification provisions in the GHG reporting rule conform more to the TRI program and endorse the specific Redline of proposed Section 98.4 in Subpart A that is provided by API in their comments on this proposed rule.

Response: See the preamble Section V.B.1 response on the Certification Statement.

Commenter Name: Marcelle Shoop
Commenter Affiliation: Rio Tinto Services, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0636.1
Comment Excerpt Number: 36

Comment: The rule would require GHG reports to be certified by a -designated representative." Each owner or operator would be required to enter into a binding agreement with a designated representative and submit a signed certificate of representation with respect to such designation prior to submitting a GHG report. The agreement and certificate must be updated whenever there is a change in the designated representative or a change in the owner or operator. (74 Fed. Reg. at 16615) Rio Tinto believes that the proposed requirements for a binding agreement between the owner I operator and a designated representative and the related requirements are excessive and not necessary for most facilities. EPA should drop the requirement for the binding agreement and adopt (either in place of, or as an option) a definition for "designated representative" that is similar to the definition of "responsible official" from the Title V Operating Permit program (40 CFR Part 70). Thus, a "designated representative" could be defined as an individual holding one of several defined positions in a corporation or other organization or a delegate of that individual. See 40 CFR 70.2 (definition of "responsible official"). The responsible official requirements are not nearly as burdensome and complicated as the proposed designated representative requirements in that they do not require separate agreements or certificates of representation.

Moreover, most facilities that will be subject to the GHG reporting requirements already are familiar with the concept of, and requirements for, responsible officials. Adopting this approach into the GHG rule will reduce the potential for confusion and unnecessary burdens.

Response: See the preamble Section V.B.1 response on the Certification Statement. See also the preamble Section V.B.1 response on Designated Representative.

Commenter Name: Christina T. Wisdom
Commenter Affiliation: Texas Chemical Council (TCC)
Document Control Number: EPA-HQ-OAR-2008-0508-0638.1
Comment Excerpt Number: 14

Comment: The proposed rule sets forth a requirement for the certification of greenhouse gas emissions reports that is unnecessarily stringent. Each report must be certified by a "Designated Representative" who must have responsibility for the overall operation of the facility and must be "selected by agreement binding on the owners and operators." Furthermore, the Designated Representative must attest that he or she has personally examined and is familiar with the contents of the report. While this certification requirement appears identical to the requirements of the Acid Rain programs in 40 C.F.R. Parts 72 and 75, it is also much more stringent than the certification requirements for both TRI reports and Title V compliance certifications. Such a strict certification requirement is not necessary here because it simply is not justified. The proposed greenhouse gas reporting rule serves as a reporting function only and is intended to provide policy makers with information relevant to make decisions regarding climate change policy. It is not intended to demonstrate compliance with yet-to-be established emissions standards and should not be overly burdensome. Accordingly, TCC requests that EPA revise the certification requirement to make it conform to other similar EPA reporting programs.

Response: See the preamble Section V.B.1 response on the Certification Statement.

Commenter Name: Sarah E. Amick
Commenter Affiliation: The Rubber Manufacturers Association (RMA)
Document Control Number: EPA-HQ-OAR-2008-0508-0647.1
Comment Excerpt Number: 7

Comment: RMA is concerned about the extensive procedures required under the proposed rule to certify the designated representative. These requirements go beyond what is required to certify reporting under Title V of the Clean Air Act, thus posing an additional burden on industry, without any additional environmental benefit. To maintain consistency and to ensure compliance, the certification procedures contained in the greenhouse gas reporting rule should mirror the requirements for compliance certification contained in Title V of the Clean Air Act. The requirements for compliance certification under Title V stipulate that “any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.” (40 CFR Ch. 1, §70.5(d)) The proposed greenhouse gas reporting rule creates additional burdens to certify the responsible official or designated reporter by unduly expanding on the certification requirements under Title V. Since the Title V framework works

well in the context of compliance with regulatory limitations, the framework surely would provide suitable compliance assurance for a reporting program. Unlike the certification procedures contained in Title V, the proposed rule requires that the designated representative complete a certificate of representation prior to submitting GHG emissions reports. (§98.4(d)) The proposal indicates that the designated representative "shall be selected by an agreement binding on the owners and operators" and the certificate of registration must include the following certification statements (§98.4(i)(4)): (i) 'I certify that I was selected as the designated representative or alternate designated representative, as applicable, by an agreement binding on the owners and operators that are subject to the requirements of 40 CFR 98.3.' (ii) 'I certify that I have all the necessary authority to carry out my duties and responsibilities under the Mandatory Greenhouse Gas Reporting Program on behalf of the owners and operators that are subject to the requirements of 40 CFR 98.3 and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions.' (iii) 'I certify that the owners and operators that are subject to the requirements of 40 CFR 98.3 shall be bound by any order issued to me by the Administrator or a court regarding the source or unit.' (iv) 'Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a facility (or supply operation as appropriate) that is subject to the requirements of 40 CFR 98.3, I certify that I have given a written notice of my selection as the 'designated representative' or 'alternate designated representative', as applicable, and of the agreement by which I was selected to each owner and operator that is subject to the requirements of 40 CFR 98.3.' The Title V program does not require certifications that "bind" the owners and operators of facilities to an individual's "representations, actions, inactions, or submissions." Moreover, it is impractical to expect affected companies to agree to be bound by "any order issued ...by the Administrator or a court regarding the source or unit" prior to seeing such order. The intensity of the proposed certification provisions are difficult to understand in the context of this reporting rule. Again, what has worked well in the context of compliance with regulatory limitations (i.e. Title V) surely would provide suitable compliance assurance for a GHG reporting program. The proposed rule also contains additional certification requirements not required by Title V: the designation of an alternative representative to act in lieu of the designated representative, the completion of a certificate of representation to change the designated representative, and the requirement to notify the EPA within thirty days if the owner or operator of a facility changes or if there is a new owner or operator included in the list. These additional certification requirements are burdensome because they would require facilities to complete two certification processes; one under Title V and a different certification process under the reporting rule. Once again, what has worked well in the context of compliance with regulatory limitations (i.e. Title V) surely would provide suitable compliance assurance for a GHG reporting program. To maintain consistency and compliance, RMA recommends that the certification procedures for the designated representative mirror the provisions contained in Title V.

Response: See the preamble Section V.B.1 response on the Certification Statement. See also the response to EPA-HQ-OAR-2008-0508-0406.1, excerpt 1.

Commenter Name: Matthew G. Paulson
Commenter Affiliation: LLP on behalf of BCCA Appeal Group
Document Control Number: EPA-HQ-OAR-2008-0508-0649.1
Comment Excerpt Number: 13

Comment: EPA should revise the requirements and responsibilities of the designated representative to be more aligned with EPA verification requirements in other established

environmental programs such as the TRI program. The proposed rule sets an inappropriate expectation for the role of the designated representative as it requires that individual to have "personally examined" the submitted information. A plant manager or any other high-level management official at a complex facility is unlikely to be in a position to "personally examine" all the underlying documents used to prepare the emissions report. This could in essence be an all-encompassing full-time job that would distract unduly from other management responsibilities. A more appropriate standard is one that is similar to established EPA air programs, which are based on a reasonable inquiry approach.

Response: See the preamble Section V.B.1 response on the Certification Statement.

Commenter Name: Michael A. Palazzolo
Commenter Affiliation: Alcoa, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0650.1
Comment Excerpt Number: 8

Comment: The proposed rule requires that each facility register a "designated representative" who must sign and certify that he or she has personal knowledge of the truth and accuracy of GHG emission reports submitted by a facility. Authorization of the designated representative and the associated legal "binding agreement" appear to evolve from the auction and marketing of acid rain credits. We believe that the proposed provisions in Section 98.4 for authorizing and certifying a "designated representative" are not justified for GHG emission reporting, and unnecessarily create a duplicative certification requirement for the numerous facilities that submit compliance and emission reports under Title V and nearly every other CAA program. These reports are signed by a "responsible official", as defined in 40 CFR Part 70, who is subject to the same CAA civil and criminal penalties as the proposed "designated representative". We recommend that EPA simplify the GHG emission report certifications and reduce legal and reporting work by adopting the existing Part 70 "responsible official" and certification language.

Response: See the preamble Section V.B.1 response on the Certification Statement.

Commenter Name: John H. Skinner
Commenter Affiliation: Solid Waste Association of North America (SWANA)
Document Control Number: EPA-HQ-OAR-2008-0508-0659.1
Comment Excerpt Number: 16

Comment: We request clarification of who is responsible for reporting greenhouse gas emissions when all or portions of the landfill gas collection and control and destruction equipment (e.g., flare, turbine, reciprocating internal combustion engine) are not owned by the same entity.

Response: EPA provides flexibility for owners and operators to reach agreement on the designation of a facility representative under this rule. EPA modified the definition of owner to clarify that reporters must list only those owners with operational control on the certificate of representation.

Commenter Name: Robert N. Steinwurtzel
Commenter Affiliation: Bingham McCutchen LLP on behalf of Association of Battery Recyclers (ABR)
Document Control Number: EPA-HQ-OAR-2008-0508-0660.1
Comment Excerpt Number: 16

Comment: While ABR generally supports self-certification, it does have concerns regarding the requirements for a "Designated Representative." The Proposed Rule would require a designated representative (or a properly designated alternate) to complete a certification of the GHG emissions report. See 74 Fed. Reg. at 16,615, Proposed §98.4. Again, the proposal is intended to collect information for future policy making, not to establish compliance with any regulation under the Act. As such, stringent certification requirements are not warranted, particularly given general protections against submitting false information to the government. The certification provisions under the Toxic Release Inventory regulations serve as an example of the certification that should be required here. Under 40 C.F.R. § 372.85(b), EPA merely requires "[s]ignature of a senior management official certifying the following: 'I hereby certify that I have reviewed the attached documents and, to the best of my knowledge and belief, the submitted information is true and complete and that amounts and values in this report are accurate based upon reasonable estimates using data available to the preparer of the report." At a minimum, the certification requirements should be revised to reduce the burdens on the facility and the potential risks to the designated representative. First, the proposal would impose undue burdens on such designated representatives, such as requiring that the designated representative have "personally examined" the submitted information. 74 Fed. Reg. at 16,615, Proposed §98.4(e). Any such certification, if required, should be less onerous, such as those established under other EPA air programs, which is based on a reasonable inquiry, considering the best of the designated representative's knowledge and belief. Second, EPA should not include the provision requiring an "agreement binding on the owners and operators" to specifically identify a particular individual. Id. at Proposed §98.4. This unduly places limits on the facility's ability to designate an appropriate person, and would require updates any time there is a personnel change. Third, while the proposed rule provides for an alternate designated representative, it also states that "... any representation, action, inaction, or submission by the alternate designate representative shall be deemed to be a representation, action, inaction or submission by the designated representative." Id. at Proposed §98.4(f)(1). Such actions should not be imputed onto the designated representative who may have legitimate reasons not to be available to certify the report.

Response: See the preamble Section V.B.1 response on the Certification Statement. See also the response to EPA-HQ-OAR-2008-0508-0406.1, excerpt 1.

Commenter Name: David P. DiBoyan
Commenter Affiliation: International Carbon Black Association (ICBA)
Document Control Number: EPA-HQ-OAR-2008-0508-0678.1
Comment Excerpt Number: 4

Comment: Under 98.4, the "designated representative" is defined as possibly being the facility manager, the environmental manager, or others. To ensure proper accountability, the ICBA suggests that the "designated representative" be defined as the highest ranking individual at the specific site (i.e., General Manager, etc.) authorized to submit regulatory reports.

Response: See the preamble Section V.B.1 response on Designated Representative.

Commenter Name: See Table 7
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0679.1
Comment Excerpt Number: 31

Comment: EPA proposes that each reporting facility have a 'designated representative' that is approved by all facility owners and who can certify the emissions data provided to EPA. As such this "Designated Representative" would act as a legal representative between the reporting facility or entity and the EPA: "The use of the Designated Representative would simplify the administration of the program while ensuring the accountability of an owner or operator for emission reports and other requirements of the mandatory GHG reporting rule. The Designated Representative would certify that data submitted are complete, true, and accurate. The Designated Representative could appoint an alternate to act on their behalf, but the Designated Representative would maintain legal responsibility for the submission of complete, true, and accurate emissions data and supplemental data. (74 FR 68, page 16473) API comments The proposed rule sets an unrealistic expectation for the role of the designated representative. 40 CFR 98.4(e)(1) includes a certification statement containing the following language: "...I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete..." This language sets an inappropriate standard for a plant manager, or his/her "designated representative." No high-level management official at a complex facility has the time or expertise to "personally examine" all the documents used to prepare the emissions report. This could in essence be a full-time job (or more) and would distract from other management responsibilities. A more appropriate standard is one that is similar to other EPA air programs, which is based on a "reasonable inquiry" approach. In the TRI program, which is another emissions reporting rule, the certification statement in 40 CFR 372.85(b)(2) is "I hereby certify that I have reviewed the attached documents and, to the best of my knowledge and belief, the submitted information is true and complete and that amounts and values in this report are accurate based upon reasonable estimates using data available to the preparer of the report." The provisions for the "alternate designated representative" set an inappropriate obligation on the original "designated representative." The proposed rule allows for the designated representative to delegate responsibility to an alternative designate representative. For example, the designated representative might be on vacation or a medical leave. However, the rule language in 98.4(f)(1) states that "...any representation, action, inaction, or submission by the alternate designate representative shall be deemed to be a representation, action, inaction or submission by the designated representative." API recommends that 98.4(f)(1) be deleted - the responsibility should lie with the alternate designate representative. Additionally, designated representatives might not have the detailed expertise to evaluate data and emissions from all of the processes of large complex facilities for which they are reviewing data. The proposed rule requires the certificate of representation, to be revised if the designated representative changes. These provisions are not necessary and just create a paperwork exercise. Considering the frequency of personnel changes, having facilities send in updated certificates of representation provides no value. API recommends that EPA consider a more generalized certificate of representation, such as "plant manager or their delegated representative". The rule should provide for the case where non-operating "owners" decline to approve, in writing, the "Designation of Representative" per

EPA's requirement of having a legally binding agreements. Also, EPA should provide for a longer notification period for facilities to submit "change of ownership" updates to EPA. Some of the possible contentious issues associated with facility owners agreeing to a "designated representatives" might be associated with unintended consequences of EPA discussion of liability for data corrections using missing data. (Further discussion of these issues is provided in III.12. below). API recommends that the requirements and responsibilities of the designated representative be amended to be consistent with the certification requirements in other established environmental reporting and information gathering programs such as the Toxics Release Inventory program. Please see Section IV for our specific recommendations for amending proposed 40 C.F.R. § 98.4.

Response: See the preamble Section V.B.1 response on the Certification Statement. See also the response to EPA-HQ-OAR-2008-0508-0406.1, excerpt 1.

Commenter Name: See Table 7
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0679.1
Comment Excerpt Number: 45

Comment: Under the proposed rule, a designated representative (or a properly designated alternate) would be required to complete a certification of the GHG emissions report. API recommends that the requirements and responsibilities of the designated representative be amended, as set forth in the following Redline of Proposed Section 98.4 (see //DCN:EPA-HQ-OAR-2008-0508-0679.1 PP.49-51 for detailed amendments to section 98.4). Our proposed modifications are based on EPA certifications required in other established environmental programs such as the Toxics Release Inventory ("TRI") program. We believe certification provisions in such programs provide a better template for certification for the GHG reporting rule. Below, we explain four of our primary concerns with the proposed rule's language. First, the proposed certification statement that requires the designated representative has "personally examined" the submitted information sets an inappropriate standard for a plant manager, or his/her "designated representative." An appropriately high-level management official at a complex facility is unlikely in a position to "personally examine" all the underlying documents used to prepare the emissions report. This could in essence be an all-encompassing full-time job that would distract unduly from other management responsibilities. A more appropriate standard is one that is similar to the TRI program, which requires the designated representative to certify based on the best of his or her knowledge and belief. Second, EPA should not include requirements that dictate how the designated representative be selected. The proposed rule would intrude upon the existing legal arrangements between owners and operators by requiring the designated representative "be selected by an agreement binding on the owners and operators ...." API recommends deletion of this requirement. Third, the proposed provisions for the "alternate designated representative" sets an inappropriate level of liability on the original "designated representative," particularly when the designated representative has delegated responsibility. The proposed rule allows for the designated representative to delegate responsibility to an alternative designate representative. For example, the designated representative might be on vacation or a medical leave. However, the rule language in Section 98.4(f)(1) states that ". ....any representation, action, inaction, or submission by the alternate designate representative shall be deemed to be a representation, action, inaction or submission by the designated representative." API recommends that Section 98.4(f)(1) be deleted--- the responsibility should lie with the alternate designate representative in these circumstances. Fourth, API believes the requirements

related to the "certificate of representation" are unwieldy and unnecessary. We request that EPA eliminate the entirety of subsection (i) of Section 98.4 and all related references to the certificate, such as subsections (d) and (k). Apart from the Acid Rain Program, which – as explained further below – is fundamentally different than the proposed reporting program, EPA has historically not required such a certificate in other programs. The TRI program, which is the program most analogous to the proposed reporting rule, does not require such a certificate. Requiring entities subject to this rule to complete such certificates would be a cumbersome process. For example, the requirement in proposed Section 98.4(g)(3) that a "list of the owners and operators of the facility or supply operation" be included in the certificate would require substantial paperwork for some entities as there are often frequent changes in ownership and operators. Moreover, many facilities have long lists of owners with small interests or royalty interests, for example, such that compliance with the proposed requirement will create a paperwork nightmare. The burden of complying with these provisions is amplified when they are coupled with the requirement in proposed Section 98.4(h) that facilities submit updated certificates every time there is a change in owners or operators. Given that EPA's stated primary purpose behind the proposed rule is data collection, such detailed and frequently updated lists of owners and operators are unnecessary. Notably, even if EPA decides to keep the proposed rule's requirement for a certificate of representation, API recommends that Sections 98.4(g)(3) and 98.4(h) still be deleted for the reasons stated above.6 [footnote: The implication in the proposed 40 C.F.R. § 98.4(h) that a new owner of a facility could incur legal liability for actions that the Designated Representative undertook under previous ownership is very concerning. If EPA decides to retain subsection (h), it should at least clarify that, in accordance with accepted tenets of agency and contract law, a new owner's liability only extends to actions of the Designated Representative made after the change in ownership and after the point when the Designated Representative becomes an employee of the new owner. In an industry where facilities frequently change corporate ownership, lack of clarity on this point could unintentionally create significant legal risks. API proposes the following language be substituted for the proposed § 98.4(h): 40 CFR § 98.4(h)(1) Changes in owners and operators. In the event a new owner or operator is not included in the list of owners and operators in the certificate of representation under this section, such new owner or operator shall be deemed to be subject to and bound by statements or actions of the designated representative made after the new owner or operator commenced ownership or operation. (2) Liability. Notwithstanding any other provision of this subpart, no new owner or operator of a facility shall be held liable for any certificate, representation, action, inaction or submission of a designated representative made before the new owner obtained title to the reporting facility or the new operator executed an operating agreement for the reporting facility.] These requirements would result in great burden and would not serve the purposes of the stated rule. In addition, should EPA retain the certificate of representation requirement, it should still eliminate the requirement that the certificate be revised if the designated representative changes. Considering the frequency of personnel changes, having facilities send in updated certificates of representation provides no value and creates an unnecessary paperwork exercise. API also recommends that, if the certificate of representation requirement is retained in the final rule, EPA allow it to be completed in a more general format, such as by the "plant manager or their delegated representative." Other EPA-administered permit programs, such as the Hazardous Waste Permit Program, allow for assignment or delegation of the designated representative duties to applicable corporate positions rather than to specific individuals. See 40 C.F.R. § 270.11(a). API acknowledges that the provisions in the proposed rule are patterned after EPA's Acid Rain Program regulations regarding the authorization and responsibility of the designated representative in that program. See 40 C.F.R. §§ 72.20 – 72.26. API recommends against using the Acid Rain Program regulations as a model for the current proposed regulations. In the Acid Rain Program, the designated representative's certificate of representation and related

requirements are completed in the context of a program where emission allowances are being bought and sold. The mandatory reporting rule is proposed in an entirely different context and for the purpose of information gathering. In addition, unlike the Acid Rain Program, which is designed to monitor emission from a single source category (utilities), the proposed GHG reporting rule applies to scores if not hundreds of different categories—from landfills and wastewater treatment to oil refiners and chemical manufacturers—that are fundamentally distinct and disparate in their nature. The increased complexity of the proposed GHG reporting rule warrants significantly greater flexibility than the Acid Rain Program, as demonstrated by the length of the GHG reporting rule itself. Further, many of these almost infinite entities have complex ownership patterns that would make certain aspects of the proposed certification process problematic. EPA should look to other established environmental programs that similarly account for a multitude of different industries, such as TRI, as the better model for this rule. Section §98.4 should read as follows: (a) General. Except as provided under paragraph (d) of this section, each owner or operator of a facility or supply operation that is subject to this part, shall have one and only one designated representative responsible for certifying and submitting GHG emissions reports and any other submissions to the Administrator under this part. (b) Authorization of a designated representative. The designated representative must be an individual having responsibility for the overall operation of the facility or activity such as the position of the plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the facility or supply operation. (c) certification of the GHG emissions report. Each GHG emission report and any other submission under this part shall be submitted, signed, and certified by the designated representative in accordance with 40 CFR 3.10. (1) Each such submission shall include the following certification statement by the designated representative: 'I am authorized to make this submission on behalf of the owners and operators of the facility (or supply operation, as appropriate) for which the submission is made. I certify under penalty of law that I have reviewed the attached document and, to the best of my knowledge and belief, the submitted information is true, accurate, and complete.' (2) The Administrator will accept a GHG emission report or other submission under this part only if the submission is signed and certified in accordance with paragraph (e)(c)(1) of this section. (d) Alternate designated representative. A certificate of representation under this section may designate an alternate designated representative, who may act on behalf of the designated representative. The agreement by which the alternate designated representative is selected shall include a procedure for authorizing the alternate designated representative to act in lieu of the designated representative. (e) Changing a designated representative or alternate designated representative. The designated representative (or alternate designated representative) may be changed at any time

Response: See the preamble Section V.B.1.response, Certification Statement. With regard to the commenter's claims about the requirement that the designated representative certify his personal examination of the underlying documents, EPA notes that the final rule does not specify what types of individuals can be selected as designated representatives and instead gives owners and operators flexibility concerning such selection.

Moreover, EPA disagrees with the commenter's claims that the rule "dictates" how the designated representative is to be selected and that these requirements will interfere with existing contractual arrangements among owners and operators. On the contrary, the final rule does not set any specific requirements (e.g., concerning the specific content or wording, or signature date, of such an agreement) for an agreement binding on the owners and operators for selection of the designated representative and therefore can accommodate a wide variety of circumstances, including existing contractual arrangements. See Response to Comment No. EPA-HQ-OAR-

2008-0508-0412.1, Comment Excerpt No. 18. The basic requirement that the designated representative be selected by an agreement binding on the owners and operators is consistent with the requirement (which EPA believes is important for high data quality and consistency) that the designated representative represent the owners and operators, e.g., that his actions be binding on the owners and operators.

Further, EPA disagrees with the commenter's claim that it is inappropriate for the rule to provide that the actions of the alternate are deemed to be actions of the designated representative. EPA believes, and has found in its experience with implementing the Acid Rain Program, that having one individual (the designated representative) whose actions bind the owners and operators, and who is accountable for knowing about and complying with monitoring and reporting requirements, facilitates efficient resolution of monitoring and reporting related questions and issues and helps ensure data quality and consistency. The final rule allows owners and operators to have, in addition, an alternate designated representative because of the practical problem that there may be circumstances where the designated representative is unavailable. However, the designated representative is still the individual with primary accountability, and, therefore, the final rule provides that the actions of the alternate are deemed to be actions of the designated representative.

In addition, with regard to the requirement for submission of a certificate of representation and the specific requirement that the certificate list the owners and operators of the facility or supplier covered by the certificate, EPA disagrees with the commenter's assertion that these requirements are unnecessary and unreasonably burdensome. See response to comment EPA-HQ-OAR-2008-0508-0376.1, excerpt 27. In addition to standardized certification statements and basic information identifying the facility or supplier involved and the individuals who are the designated representative and alternate designated representative, the only other information required for a complete certificate of representation is a list of owners and operators. EPA believes, for several reasons, that it is important that the certificate of representation (which will be publicly available) include an accurate, up-to-date list of the owners and operators of the facility or supplier covered by the certificate. Because the designated representative represents and binds the owners and operators and because of the importance of ensuring a high level of accountability, EPA maintains that the agency and the general public needs to know who are these owners and operators. In addition, the inclusion of the list in the certificate of representation enables entities to determine whether any designated representatives are improperly claiming to represent them. See responses to comment EPA-HQ-OAR-2008-0508-0459.1, excerpt 8 and comment EPA-HQ-OAR-2008-0508-0370.1, excerpt 5.

Further, EPA rejects, as illogical, the commenter's suggestion that, when the designated representative is changed, the agency not require a certificate of representation to be revised to identify the new individual who then is to be the designated representative. Without such a requirement, EPA and the public would have no way of knowing, and could only guess, who actually is the designated representative, which would undermine one of the primary reasons for requiring submission of certificates of representation. EPA's experience with certificates of representation in the Acid Rain Program is that the designated representatives do not change that frequently. However, the more frequent the occurrence of such changes, the more important it is to keep the certificate of representation up to date.

In addition, EPA rejects the commenter's suggestion that the rule allow the certificate of representation to be completed "in a more general format, such as by the 'plant manager or their delegated representative.'" Since the purposes of the certificate include identification of the designated representative, certification by the designated representative concerning his authority

and relationship with the owners and operators, and designation of an alternate, EPA maintains that it is reasonable to require the certificate to be signed by the individual who is to be the designated representative. EPA notes that the final rule give owners and operators flexibility in selecting the individual who is to be the designated representative and allows, but does not require, the individual to have any specific position at the company, or facility or supplier, involved.

For the reasons discussed above, EPA rejects the commenter's suggested revisions of the rule text.

Commenter Name: Linda Farrington
Commenter Affiliation: Eli Lilly and Company (Lilly)
Document Control Number: EPA-HQ-OAR-2008-0508-0680.1
Comment Excerpt Number: 7

Comment: Certificate of Representation, §98.4(i). The proposed rule requires a "complete certificate of representation" for a designated representative to be submitted to the EPA. To our knowledge, there is no equivalent concept in Title V program or other CAA programs. Under Title V, the company chooses its responsible official who will provide self-certification for various types of submissions to regulatory authorities. The certificate of representation is a new term that is unfamiliar to many owners or operators and will create unnecessary paperwork. The preamble does not discuss the rationale for this requirement, and we are not aware that there have been any abuses of the responsible official terms of the Title V program making such a detailed certificate necessary. Thus, we ask the Agency to either provide a rationale for the additional paperwork or remove the requirement to submit a certificate of representation.

Response: See the preamble Section V.B.1 response on the Certification Statement. See also the response to EPA-HQ-OAR-2008-0508-0406.1, excerpt 1.

Commenter Name: Linda Farrington
Commenter Affiliation: Eli Lilly and Company (Lilly)
Document Control Number: EPA-HQ-OAR-2008-0508-0680.1
Comment Excerpt Number: 8

Comment: Timing, §98.4(d). The company cannot file its GHG emissions report until EPA has received a complete certificate of representation. Lilly notes two issues related to this provision. First, Lilly interprets this to mean that two separate submissions will be required. A facility must submit the certificate of representation and then the GHG emissions report. If the certification of representation requirement remains in the final rule, companies should be allowed to file the emissions report and the certificate of representation simultaneously. Second, the issue of "completeness" is a concern because there is no language to describe what constitutes a "complete" certificate of representation. Does the EPA intend to issue a completeness determination or will it be deemed complete unless the EPA objects within a specified timeframe, such as 60 days? Lilly requests additional clarification on both of these issues. In addition, the proposed rule does not specify whether EPA will be "approving" the certificate of representation and the criteria or procedures by which it would determine whether the submission is acceptable.

Response: See Response to EPA-HQ-OAR-2008-0508-0376.1

Commenter Name: Linda Farrington
Commenter Affiliation: Eli Lilly and Company (Lilly)
Document Control Number: EPA-HQ-OAR-2008-0508-0680.1
Comment Excerpt Number: 9

Comment: Certification of GHG emissions, §98.4(e)(1). As proposed, the certification statement will require each designated representative to "personally examine" the statements, information, and attachments associated with the GHG emission report. This self-certification requirement is much more prescriptive than the Title V certification at 40 CFR 70.5(d) and represents an unreasonable expectation for a plant manager with broad responsibilities at a large, complex facility. We recommend that this statement be modified to be more consistent with certification statements found in other regulatory programs, such as Title V [40 CFR 7 1.5(d)] or TRI [40 CFR 372.85(b)(2)].

Response: See the preamble Section V.B.1 response on the Certification Statement.

Commenter Name: Linda Farrington
Commenter Affiliation: Eli Lilly and Company (Lilly)
Document Control Number: EPA-HQ-OAR-2008-0508-0680.1
Comment Excerpt Number: 11

Comment: Changing a designated representative, §98.4(g). This section of the proposed rule states that representations, actions, inactions, and submissions by the previous designated representative shall be binding upon the subsequent representative until the Administrator receives the new certificate of representation. Lilly believes this provision potentially creates an inappropriate liability for a future designated representative. As proposed, the language suggests that a future designated representative could be held criminally liable for the actions of one of his or her predecessors. If this is EPA's intent, we believe this language would violate due process requirements of the Constitution. If this is not what EPA meant, it should clarify the language to ensure that this provision cannot be read in a way to create future liability for an individual because of the actions of another. In addition, does this language also mean that the representations of the previous representative are no longer binding on the new representative and the company after the time EPA receives the superseding certificate? We believe EPA should clarify that this is the case.

Response: See response to Comment No. EPA-HQ-OAR-2008-0508-0520.1, Comment Excerpt No. 42. Further, the rule provision states that the new designated representative is bound by the actions of the predecessor if those actions take place before the time and date when the Administrator receives the new certificate of representation that designates the new designated representative. This is consistent with the approach taken in the rule of treating the date of receipt by the Administrator as the effective date of a certificate of representation. EPA is adopting this approach because, until the Administrator actually receives the certificate of representation, the Administrator has no way of knowing whom the owners and operators have selected as the designated representative and therefore who must certify, sign, and submit emission reports. Thus, under the rule provision, the date and time when the predecessor designated representative takes an action determines whether that action is binding on the new

designated representative. After the new certificate of representation is received, an action taken by the predecessor before the Administrator's receipt of the new certificate of representation continues to be binding to the same extent that it was binding on the predecessor. For example, elections made by the predecessor before the receipt of the new certificate of representation concerning the monitoring method used are binding on the new designated representative, who is continues to be bound by such election unless he submits a new election, consistent with the applicable monitoring provisions. EPA notes that there are means (e.g., electronic submission) available to owners and operators of ensuring that there is little or no delay between the completion and signing of a certificate of representation and the Administrator's receipt of the certificate.

Commenter Name: Linda Farrington
Commenter Affiliation: Eli Lilly and Company (Lilly)
Document Control Number: EPA-HQ-OAR-2008-0508-0680.1
Comment Excerpt Number: 10

Comment: We ask that the EPA revise the third sentence in the certification statement by replacing the word "inquiry" with "reasonable inquiry". We believe this to be EPA's intent based upon the discussion in the preamble.

Response: See the preamble Section V.B.1 response on the Certification Statement. See also the response to EPA-HQ-OAR-2008-0508-0406.1, excerpt 1.

Commenter Name: Juanita M. Bursley
Commenter Affiliation: GrafTech International Holdings Inc. Company (GrafTech)
Document Control Number: EPA-HQ-OAR-2008-0508-0686.1
Comment Excerpt Number: 16

Comment: Subpart A, §98.4 of the proposed rule also imposes significant burdens with respect to certification of the emissions report. The rule requires a "designated representative" to complete, sign and certify the emissions report with the required certification statement. In completing the required certification, "the designated representative of the facility shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator in all matters pertaining to this part, notwithstanding any agreement between the designated representative and such owners and operators" (Subpart A, §98.4(c)). These requirements must be met for the EPA to accept the GHG report. To the knowledge of GrafTech, these certification requirements outlined in the proposed rule go beyond what is typically required under other environmental data or emissions reports, such as under SARA. Rather than inventing new confusing legal provisions, or more onerous certification requirements, GrafTech suggests EPA use the same certification criteria for reporting estimated GHG emissions as has been established for SARA reporting. EPA has no justification for making the certification requirements for GHG reporting more stringent or onerous than the toxic substances emissions reporting requirements.

Response: See the preamble Section V.B.1 response on the Certification Statement.

Commenter Name: Lawrence W. Kavanagh
Commenter Affiliation: American Iron and Steel Institute (AISI)
Document Control Number: EPA-HQ-OAR-2008-0508-0695.1
Comment Excerpt Number: 37

Comment: With respect to requirements for certification by a responsible official at the facility, we take no exception since that concept is embodied in other environmental statutes. However, we believe the rigid requirements for a identifying a single Designated Representative are excessive. At many facilities, multiple individuals will be responsible for all of the activities necessary to comply with the rule's proposed requirements, including sampling, analysis, access to operating records, database management, compilation, calculations, recordkeeping, and reporting. It is not reasonable to place all of this responsibility on one individual or to identify all of the individuals involved in generating information for the reports. It is sufficient that a facility's responsible official, with management authority over all those involved with the reporting program, certify the reports.

Response: See the preamble Section V.B.1 responses on Designated Representative and Agent.

Commenter Name: Karl Pepple
Commenter Affiliation: City of Houston, Texas
Document Control Number: EPA-HQ-OAR-2008-0508-0699.1
Comment Excerpt Number: 3

Comment: The City operates sites such as airports that may include many different facilities. It appears that USEPA is proposing that a "designated representative" would be responsible for providing the emission report for all operations at a single site, no matter how diverse the operations or if the owner or operator of the site has control over the source of the emissions. Airports, and similar multi-tenant sites, should not be required to report emissions from sources they do not control. Only a small fraction of the GHG emissions from an airport is caused by the airport owner or operator. In addition, the Airport Cooperative Research Program (ACRP) has published a "Guidebook on Preparing Airport Greenhouse Gas Emissions Inventories." USEPA should consider this guidance in revising these proposed inventory reporting rules. More detailed comments regarding the potential effect of these proposed rules on airports that the USEPA should consider are included in the comments filed by the Airports Council International-North America. Moreover, local governments may not be able to comply with the rule as proposed. In Texas, and this may be true in other states, local governments are prohibited from essentially indemnifying others. Therefore, the proposal requiring certification by a designated representative who would be responsible for the accuracy of the emissions data from operations that are not controlled by the designated representative, at least insofar as it addresses public facilities, should be revised.

Response: The definition for "designated representative" and "owner" have been modified. See the preamble Section V.B.1 response on Designated Representatives and Section V.B.2. on Certificate of Representation.

Commenter Name: Michael S. Dae
Commenter Affiliation: Energy Developments, Inc. (EDI)
Document Control Number: EPA-HQ-OAR-2008-0508-0706.1

Comment Excerpt Number: 8

Comment: The proposed process for certifying a designated representative for signing these reports requires a detailed, involved effort. This creates a great deal of work on both the part of the regulated entity, as well as on the part of the agency. Further justification for requiring this lengthy, rigorous certification of representation is needed when it would appear that report certification similar to that currently required for Title V reports would be sufficient.

Response: See the preamble Section V.B.1 response on Certification Statement.

Commenter Name: Gregory A. Wilkins
Commenter Affiliation: Marathon Oil Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0712.1
Comment Excerpt Number: 25

Comment: Marathon opposes the liability placed on the facility and designated representative for resubmission of corrections or missing data. According to the proposed rule, the designated representative can be held criminally liable for resubmission of data even if missing data procedures are followed. On page 74 FR 16474 of the preamble EPA states, "Even if EPA were to allow recalculation of submitted data or accept data submitted using missing data procedures, that would not relieve the reporter of their obligation to report data that are complete, accurate, and in accordance with the requirements of this rule. Although submitting recalculated data or data using missing data procedures would correct the data that was wrong that resubmission or missing data procedures does not necessarily reverse the potential rule violation and would not relieve the reporter of any penalties associated with that violation."

Response: The substitute data provisions require reporting of data for periods when valid, quality assured data are missing, i.e., are not available. The purposes of requiring the use of substitute data for such periods are to ensure that there are emissions data for every period of operation that do not understate emissions and to provide a strong incentive to correct problems that caused the lack of valid, quality assured data. The commenter apparently believes that, if the owners and operators (represented by the designated representative) of a facility use the required substitute data provisions, EPA should not be allowed to consider whether problems that caused the lack of valid, quality assured data constitute violations of any monitoring and reporting requirements and warrant enforcement action. EPA rejects the commenter's approach as unreasonable and inappropriate because that approach would require ignoring potential violations and would reduce the incentive for owners and operators to meet all monitoring and reporting requirements, potentially resulting in reduced availability of valid, quality assured data. In contrast, under EPA's approach explained in the preamble of the proposed rule and adopted in this proceeding, the use of substitute data will not prevent EPA from considering whether the owners and operators met their requirements with regard to the missing data period. Any penalties that EPA might decide to assess or seek with regard to the missing data period would be discretionary penalties (which could be civil or criminal penalties, depending on the circumstances), and the facility owners and operators could challenge the basis and amount of any such penalties. EPA's approach adopted in this proceeding has been applied in the Acid Rain Program since the program's inception and has helped in the achievement of a high level of data quality and consistency in that program.

Commenter Name: Gregory A. Wilkins
Commenter Affiliation: Marathon Oil Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0712.1
Comment Excerpt Number: 27

Comment: EPA states that the designated representative must "personally examine" all the documents used to prepare the emissions report. Not only is this extremely time consuming, but the designated representative would not have the expertise to examine all of the information for accuracy. A more appropriate standard would be what EPA has used in other programs, for example TRI. This language includes the phrase, to the best of my knowledge and belief, the submitted information is true and complete..." Marathon requests that EPA substitute the language currently in the rule to correspond with the language in the TRI rule.

Response: See the preamble Section V.B.1 response on Certification Statement.

Commenter Name: Ron Downey
Commenter Affiliation: LWB Refractories
Document Control Number: EPA-HQ-OAR-2008-0508-0719.1
Comment Excerpt Number: 41

Comment: 40 C.F.R. 98.4(b) lists who may serve as a designated representative. The provision is much too restrictive and it denies the source the ability to appoint the best qualified employee, including highly qualified plant environmental or sustainability staff. 40 C.F.R. 98.4(b) should be revised to incorporate the Clean Air Act's definition of "designated representative." 42 U.S.C. 7630(26) (1990), which allows a "responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the submission of and compliance with environmental permits, permit applications, and compliance plans for the unit."

Response: See the preamble Section V.B.1 response on Certification Statement. See also the preamble Section V.B.1 response on Designated Representative.

Commenter Name: Ron Downey
Commenter Affiliation: LWB Refractories
Document Control Number: EPA-HQ-OAR-2008-0508-0719.1
Comment Excerpt Number: 46

Comment: The requirement in 40 C.F.R. 98.4(h) to provide notice to EPA within 30 days of any change in owners and operators is unnecessary. This information could be included in the annual report.

Response: See Response to EPA-HQ-OAR-2008-0508-0520.1, excerpt 44.

Commenter Name: Ron Downey
Commenter Affiliation: LWB Refractories
Document Control Number: EPA-HQ-OAR-2008-0508-0719.1
Comment Excerpt Number: 45

Comment: 40 C.F.R. 98.4(c) suggests that all decisions and orders from EPA shall be issued to the designated representative. The language could be interpreted to imply that the designated representative could be responsible for complying with any orders or decisions issued by EPA. EPA should revise 40 C.F.R. 98.4(c) to clarify that "The owners and operators shall be bound by any decision or order issued to the company by the Administrator or a court."

Response: See Response to EPA-HQ-OAR-2008-0508-1568, excerpt 9.

Commenter Name: Ron Downey
Commenter Affiliation: LWB Refractories
Document Control Number: EPA-HQ-OAR-2008-0508-0719.1
Comment Excerpt Number: 44

Comment: The requirement in 40 C.F.R. 98.4(g) that the actions, inactions, and submittals of a previous designated representative are binding on the new representative and company. It is unreasonable to subject a new designate representative to the "penalty of law" for the actions of his predecessor. The Proposed Rule should follow the Western Climate Initiative's interpretation that the facility, and not the new designated representative, is subject to the penalty of law for the actions of the existing designated representative. A new designated representative should not be personally liable for the acts of his/her predecessor. 40 C.F.R. 98.4(g) should be revised to states that the actions, inactions, and submittals of the prior designated representative are "binding on the owners and operators."

Response: See Response to EPA-HQ-OAR-2008-0508-0520.1, excerpt 42.

Commenter Name: Ron Downey
Commenter Affiliation: LWB Refractories
Document Control Number: EPA-HQ-OAR-2008-0508-0719.1
Comment Excerpt Number: 43

Comment: 40 C.F.R. 98.4(b) requires the designated representatives to submit a "Certificate of Representation" as described in 40 C.F.R. 98.4(i). It seems unnecessary to require a certificate of representation for those designated representatives directly employed by the owner or operator, but a certificate of representation may be appropriate for a third party serving as the designated representative. EPA should limit the requirement to submit a "certificate of representation" to those "designated representatives" not directly employed by the company.

Response: See reponse to EPA-HQ-OAR-2008-0508-0520.1, excerpt 41.

Commenter Name: Ron Downey
Commenter Affiliation: LWB Refractories
Document Control Number: EPA-HQ-OAR-2008-0508-0719.1

Comment Excerpt Number: 42

Comment: 40 C.F.R. 98.4(a) states that each owner or operator "shall have one and only one designated representative responsible for certifying and submitting GHG emissions reports." On the other hand, 40 C.F.R. 98.4(b) refers to the "designated representative of the facility." LWB requests EPA to clarify whether this Rule requires one representative per company to submit one report on behalf of all facilities subject to the Rule, or must each facility have a separate representative submit a report. LWB requests that the Rule clearly indicate whether the source may decide on a case-by-case basis whether qualified corporate or facility personnel should submit the report for a particular facility.

Response: See preamble Section V.B.1. on Designated Representatives.

Commenter Name: John M. McManus
Commenter Affiliation: American Electric Power
Document Control Number: EPA-HQ-OAR-2008-0508-0725.1
Comment Excerpt Number: 4

Comment: AEP urges EPA to conform the definition for a designated representative under the GHG reporting rule with the current definition provided in the ARP. AEP is concerned that by establishing additional requirements for DRs under this program, facilities with DRs under the ARP could be required to either change their ARP DR to meet the definition under this rule (contrary to EPA's and Congress' intent) or identify an additional person to certify data already certified by the DR under the ARP. To the extent EPA intends the DR under this program to be responsible for making certifications with respect to data collected under Part 75, EPA must conform the definition of DR under this rule to the definition of DR under the ARP. Any other result would unreasonably interfere with electric generating facilities' choice of individuals to take responsibility for certifying data under Part 75. Conforming the definitions also is necessary in order to allow ARP DRs to make submissions under this program using their existing electronic signature authorizations as EPA suggests in the preamble. EPA should also authorize "agents" to perform the tasks of making electronic submissions as allowed under the ARP.

Response: See the response to EPA-HQ-OAR-2008-0508-0473.1, excerpt 8.

Commenter Name: Tim Higgs
Commenter Affiliation: Intel Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0759.1
Comment Excerpt Number: 13

Comment: A Responsible Officer Should be Used to Sign GHG Reports The Proposed Rule requires that each facility register a "designated official" who must sign and certify annual GHG emission reports. This appears to be modeled after the acid rain program requirements. Because the process for designating a representative is fairly onerous, Intel is concerned that this requirement is unnecessarily burdensome for a rule that currently only applies to GHG reporting. At Intel, plant managers frequently change assignments, so it will be difficult to keep up with the paperwork requirements that are set forth for the submission and acceptance of new designated representatives on a facility-by-facility basis. In addition, Intel does not believe that the role of "designated official" will ensure any more accuracy than could be achieved with the current

"responsible officer," which is used under Title V and nearly every other Clean Air Act program which have similar reporting requirements. Responsible officers sign permit applications and certify the accuracy and completeness of required reports and other documentation. Since these are the very same requirements for verification of GHG emission reports, Intel does not understand why EPA should differentiate between responsible officers and designated officials. Responsible officers are subject to both civil and criminal penalties under the Clean Air Act for the accuracy of their certifications. As such, Intel recommends that EPA use the well understood role of the responsible officer, instead of the new and more complex "designated official" for purposes of the Proposed Rule. If Congress later adopts a "cap and trade" system for GHG and EPA determines that the information certified by a responsible officer is not accurate enough, it can then reconsider whether it would be wise to adopt the proposed definition of a "designated official."

Response: See the preamble Section V.B.1 response on Certification Statement.

Commenter Name: Rhea Hale
Commenter Affiliation: American Forest & Paper Association (AF&PA)
Document Control Number: EPA-HQ-OAR-2008-0508-0909.1
Comment Excerpt Number: 32

Comment: AF&PA disagrees with the language on certification requirements contained in proposed 40 CFR 98.4(e). As written, it could be read to make the certifying official the guarantor of the accuracy of the information submitted even though he or she may have done everything that could reasonably be expected. This problem could be cured by inserting the word "reasonable" so that the regulation would provide for certifications based on "reasonable inquiry of those individuals with primary responsibility." No harm to EPA's reporting program would result from this change, since EPA clearly does not intend to require unreasonable or beyond reasonable inquiry by certifying officials. Instead, it would provide assurance to certifying officials that EPA does not intend to impose such unreasonable burdens. Such changes would make the certifying language consistent with the language for Title V permit compliance certifications, which requires only a reasonable inquiry (see 40 CFR 70.5(d)). Such a reasonableness assurance is even more appropriate here than for Title V, for two reasons. As a matter of simple logic and fairness, the reporting liabilities for a broad-based information gathering program to which no emission reduction requirements are currently attached should certainly not be stricter than the requirements for certifying compliance with binding emission controls.

Response: See the preamble Section V.B.1 response on Certification Statement.

Commenter Name: Rhea Hale
Commenter Affiliation: American Forest & Paper Association (AF&PA)
Document Control Number: EPA-HQ-OAR-2008-0508-0909.1
Comment Excerpt Number: 33

Comment: As AF&PA has discussed with EPA, quantifying GHG emissions is a new and difficult technical enterprise that will require many reporting facilities to resolve numerous uncertainties and use new and sometimes incompletely proven quantification tools. We acknowledge there must be accountability for these efforts, but we believe a strict liability

standard is inappropriate. AF&PA understands that the self-certification with EPA verification approach, which we support, will in some cases require EPA to examine plant records and backup data to assure the quality of emissions reports. In making those examinations, EPA should be aware of a wide-spread practice that does not provide any grounds for concern about the accuracy of reports. Specifically, facilities often measure the same thing in different ways corresponding to the different purposes for which the measurement is made. So, for example, fuel consumption or a close equivalent may be measured in one way for financial accounting purposes, in another for inventory management, and in yet another for purposes of process control. Even emissions, including GHG emissions, may be measured differently for any of these reasons, or because they are subject to different reporting requirements for GHG that have grown up in different ways or may have different legally prescribed design requirements. Such different approaches should not in themselves be cause for any concern about the accuracy of reports under the final GHG reporting rule as long as the facility has met the requirements of the GHG reporting rule itself. On the contrary, such differences are inevitable and unavoidable, and a natural part of managing a complex facility. EPA should administer the GHG reporting program in awareness of that fact.

Response: EPA appreciates the concerns raised by the commenter and thanks him for his comment.

Commenter Name: Kathy G. Beckett
Commenter Affiliation: West Virginia Chamber of Commerce
Document Control Number: EPA-HQ-OAR-2008-0508-0956.1
Comment Excerpt Number: 11

Comment: Under proposed § 98.3(c), each annual emissions report must include a signed certification statement by the "designated representative" of the owner or operator. Conforming the definitions as they appear in this proposal and Part 75 is necessary in order to allow Acid Rain Program ("ARP") ARP designated representatives to make submissions under this program using their existing electronic signature authorizations as EPA suggests in the preamble. 74 Fed. Reg. at 16594. In addition, EPA's proposed rule also fails to take into account the need for "agents" to make electronic submissions on behalf of the designated representative. Experience with electronic reporting under Part 75 has shown that designated representatives are often not the appropriate person to perform the tasks associated with the actual electronic submittal (as opposed to certification of the data). EPA should include a provision that specifically allows the use of agents.

Response: See the preamble Section V.B.1 response on Designated Representatives and Agent.

Commenter Name: Michael Garvin
Commenter Affiliation: Pharmaceutical Research and Manufacturers of America (PhRMA)
Document Control Number: EPA-HQ-OAR-2008-0508-0959.1
Comment Excerpt Number: 7

Comment: As currently drafted, Section 98.4(e) of the proposed rule does not clearly state that the standard by which the designated representative should inquire into statements and information contained in the certification. We do not believe the agency intended this apparent omission, as the rule's preamble clearly states at 74 FR 16463 that the designated representative

is expected to undertake a "reasonable inquiry." In light of this, PhRMA requests that the EPA clarify the certification standard language in the proposed rule to align with the preamble statement that the designated representative performs a "reasonable inquiry" of the data before submittal.

Response: See the preamble Section V.B.1 response on Certification Statement.

Commenter Name: Linda L. Koop
Commenter Affiliation: Texas Clean Air Cities Coalition (TCACC)
Document Control Number: EPA-HQ-OAR-2008-0508-1037.1
Comment Excerpt Number: 3

Comment: As many of the TCACC members own properties with multiple operators, including landfills and airports, the TCACC has concerns regarding the designated representative responsibilities and certification requirements. The main concern is that our members, as local governments, cannot accept liability for a third party. The certification language and binding a local government to potential enforcement for the actions of a private party is not feasible under the law. Therefore, the TCACC members would be unable to comply with the requirements of the designated representative for facilities that have operators other than the local government. Additionally, local government staff should not be responsible for or bear the cost of reporting environmental obligations of a private entity to the EPA. The local government staff would not have knowledge of the specific tenant operations potentially subject to the rule, the quality and completeness of the data provided or reported by the tenant, and verification of the data. This would be especially troublesome for small local governments.

Response: The commenter states, without support or specific examples, that local governments "cannot accept liability for a third party" and that therefore the designated representative provisions are not "feasible" for local government facilities with non-local government operators. EPA notes that the designated representative provisions do not require a local government to assume liability for a third party. On the contrary, under the final rule, local governments and other owners and operators retain the ability to handle issues concerning liability through contractual arrangements. The commenter fails to demonstrate, and EPA therefore rejects the claim, that the commenter's members would be unable to comply with the designated representative provisions. See Response to Comment No. EPA-HQ-OAR-2008-0508-2079, Comment Excerpt No. 12.

Commenter Name: Kimberly S. Lagomarsino
Commenter Affiliation: Mississippi Lime
Document Control Number: EPA-HQ-OAR-2008-0508-1568
Comment Excerpt Number: 9

Comment: 40 CFR 98.4(c) suggests that all decisions and orders from EPA shall be issued to the Designated Representative, which seems to imply that the Designated Representative could be responsible for complying with any orders or decisions issued by EPA. Suggestion: Please revise 40 CFR 98.4(c) to indicate that owners and operators shall be bound by any decision or order issued to the company by the Administrator or a court.

Response: The commenter interprets the rule provision to require that all decisions and orders issued by the Administrator must be issued to, and make responsible for compliance, the designated representative. The commenter's interpretation is incorrect, and EPA therefore rejects the suggested rule language change. The rule provision states that any decision or order that is issued to the designated representative is binding on the owners and operators. On its face, that provision does not limit the Administrator (or a court) to issuing decisions and orders only to the designated representative. EPA believes that it is not necessary to state that decisions and orders issued to owners and operators bind those owners and operators because that would be true on the face of such decisions and orders.

Commenter Name: Kimberly S. Lagomarsino
Commenter Affiliation: Mississippi Lime
Document Control Number: EPA-HQ-OAR-2008-0508-1568
Comment Excerpt Number: 8

Comment: 40 CFR 98.4(g) notes that the actions, inactions, and submittals of a previous Designated Representative are binding on the new representative and company. Mississippi Lime Company believes it is unreasonable to subject a new Designated Representative to the "penalty of law" for the actions of his/her predecessor. Suggestion: Please revise 40 CFR 98.4(g) to make the actions, inactions, and submittals of the prior Designated Representative binding on the owners and operators versus the prior Designated Representative.

Response: See response to Comment No. EPA-HQ-OAR-2008-0508-0520.1, excerpt 42.

Commenter Name: Kimberly S. Lagomarsino
Commenter Affiliation: Mississippi Lime
Document Control Number: EPA-HQ-OAR-2008-0508-1568
Comment Excerpt Number: 7

Comment: 40 CFR 98.4(b) requires Designated Representatives to submit a "Certificate of Representation" as described in 40 CFR 98.4(i). This requirement seems reasonable if a third party is serving as the Designated Representative; however, it seems unreasonable if the Designated Representative is directly employed by the company. Suggestion: Please require a "certificate of representation" for only those Designated Representatives not directly employed by the company.

Response: See reponse to EPA-HQ-OAR-2008-0508-0520.1, excerpt 41.

Commenter Name: Kimberly S. Lagomarsino
Commenter Affiliation: Mississippi Lime
Document Control Number: EPA-HQ-OAR-2008-0508-1568
Comment Excerpt Number: 6

Comment: FR 98.4 allows only 1 designated representative for certifying and reporting GHG emissions reports, and limits those personnel who may be qualified to be designated

representatives. Suggestion: Please revise 40 CFR 98.4 to allow more than 1 Designated Representative per company (e.g., allow a Designated Representative per plant). Also, please expand the list of those who may qualify to be a Designated Representative to include any person qualified to certify and report GHG emissions reports.

Response: See the preamble Section V.B.1 response on Designated Representatives and Agents.

Commenter Name: Kimberly S. Lagomarsino
Commenter Affiliation: Mississippi Lime
Document Control Number: EPA-HQ-OAR-2008-0508-1568
Comment Excerpt Number: 10

Comment: 40 CFR 98.4(h) requires that notice be provided to EPA within 30 days of any change in owners and operators. Suggestion: Please revise 40 CFR 98.4(h) to allow for a change in owners or operator to be called out in the annual report versus in a separate 30-day notification.

Response: See the response to EPA-HQ-OAR-2008-0508-0520.1, excerpt 44.

Commenter Name: Pamela F. Faggert
Commenter Affiliation: Dominion
Document Control Number: EPA-HQ-OAR-2008-0508-1741
Comment Excerpt Number: 19

Comment: We generally support reporting at the facility level as proposed in the rule. However, we request that EPA provide clarification on (1) who bears reporting responsibility for an asset for which ownership is transferred or sold during a calendar year, and (2) who bears responsibility for assets/facilities under co-ownership.

Response: The Rule provides clarification on how changes in owners and operators are handled under section 98.4(h). In addition, co-owners should be listed in the Certificate of Representation, as specified under 98.4(i)(3) and the designated representative (or alternate designated representative) includes with their submission a certification statement, as described under 98.4(e)(1) that they are authorized to make the submission on behalf of the owners and operators.

Commenter Name: Pamela F. Faggert
Commenter Affiliation: Dominion
Document Control Number: EPA-HQ-OAR-2008-0508-1741
Comment Excerpt Number: 20

Comment: To the extent EPA intends the Designated Representative (DR) under this program to be responsible for making certifications with respect to data collected under CFR Part 75, EPA must conform the definition of DR under this rule to the definition of DR under the Acid Rain Program (ARP). Any other result would interfere with an electric generating facility's choice of individuals to take responsibility for certifying data under Part 75. Conforming the definitions also is necessary in order to allow ARP DRs to make submissions under the GHG reporting

program using their existing electronic signature authorizations, as EPA suggests in the preamble.

Response: See the response to EPA-HQ-OAR-2008-0508-0473.1, excerpt 8

Commenter Name: Pamela F. Faggert
Commenter Affiliation: Dominion
Document Control Number: EPA-HQ-OAR-2008-0508-1741
Comment Excerpt Number: 21

Comment: In April 2006, EPA revised Parts 72 and 96 to explicitly allow for the use of "agents" to make electronic submittals on behalf of the DRs and NOx authorized account representatives under the Acid Rain Program, the NOx Budget Program, and the Clean Air Interstate Rule in order to remove any uncertainty regarding the lawfulness of using such agents. EPA should include a similar provision in this rule.

Response: See the preamble Section V.B.1 response on Agents.

Commenter Name: Roy Prescott and John Duffy
Commenter Affiliation: Local Government Advisory Committee (LGAC) and Climate Change
Document Control Number: EPA-HQ-OAR-2008-0508-2079
Comment Excerpt Number: 3

Comment: Require individual Operators Reporting Responsibility. The LGAC has significant concerns regarding the distinction between owner and operator in the proposed rule as well as the concept of a "designated representative". Local governments own and operate many different types of facilities including airports, ports, landfills, and industrial parks that may have tenants who are subject to the proposed rule. Additionally, many of the local government owned properties may have more than one tenant operating at the property that may be subject to the proposed rule. This designation would present many legal and liability issues which are not feasible for local governments. Therefore, the LGAC believes the EPA should require each operator of a facility be subject to reporting under this rule. This will raise the confidence level of the data received and EPA will have direct access to the facility operator and understanding of their data collection and verification processes.

Response: The final rule requires owners and operators of a facility or supplier to report emissions data in accordance with the rule's annual reporting requirements and that the annual reports generally be certified, signed, and submitted by the designated representative of the owners and operators. The commenter objects to these provisions and states the EPA "should require each operator" to report. Because the rule already puts the obligation to report on operators (as well as owners), the commenter appears to be objecting to requiring owners to also have that obligation and to the role of the designated representative. EPA rejects the commenter's suggestion that the operator, but not the owner, of a facility be responsible for emissions monitoring and reporting. EPA believes that requiring owners and operators to collectively be responsible for monitoring and reporting provides a higher level of accountability and thereby helps ensure, in conjunction with other elements of the monitoring and reporting requirements, a high level of data quality and consistency. Under this approach, owners (who in many cases may select and have some authority over the operator), as well as operators, will

have an incentive to make sure that monitoring and reporting requirements are met. EPA's belief in the beneficial effect of holding owners and operators accountable is based on the agency's extensive experience with the use of this approach in the Acid Rain Program. In addition, the commenter claims, without providing any support or specific examples, that the designation of a designated representative for the owners and operators will "present many legal and liability issues which are not feasible for local governments." However, a wide variety of privately and publicly owned entities have been covered by, and successfully monitoring and reporting emissions, under Phase 2 (starting in 2000) of the Acid Rain Program, which similarly imposes the monitoring and reporting requirements on owners and operators. The commenter's unsupported, vague claims of "unfeasibility" are contrary to EPA's experience in the Acid Rain Program. EPA notes that under the final rule owners will still have the ability to address monitoring and reporting related matters (e.g., liability) through contract.

Commenter Name: Roy Prescott and John Duffy
Commenter Affiliation: Local Government Advisory Committee (LGAC) and Climate Change
Document Control Number: EPA-HQ-OAR-2008-0508-2079
Comment Excerpt Number: 12

Comment: It is not practical or feasible to have one company owner or local government assign their reporting or environmental responsibilities to another entity. The LGAC even questions whether a local government could legally bind itself as suggested in the rule. For the local government, as the owner, to be the designated representative would create numerous difficulties including bearing the cost and responsibility of reporting on behalf of a privately held company. Additionally, the designated representative of the local government could not practically have knowledge related to the operations of the entity, such as: potential GHG sources; the associated data collected for reporting; the quality and completeness of the data collected; quality and completeness of the verification; and/or the environmental matters of the operators. Obtaining the appropriate expertise to comply with the requirements could be cost prohibitive for many small local governments. According to the proposed rule, if an operator at a facility is subject to the rule, then the reminder of the operators and the facility owner would also have to report affected sources. Additionally, multiple operators at a single facility would have to agree on a designated representative who would be responsible for "certifying" and submitting GHG emissions reports on behalf of the owner and other operators. The proposed rule also states that the designated representative be an individual with responsibility for the overall operation of the facility or activity with knowledge of the operators or the environmental matters. This is not feasible for many reasons.

Response: The commenter essentially claims that the requirement that owners and operators have a designated representative who certifies, signs, and submits emissions reports is not "practical or feasible," particularly for local government owners. The commenter speculates, without support or specific examples, that a local government might not be able to "legally bind itself as suggested in the rule." However, since, under the commenter's scenario of a private company operator for a local government facility, the local government would presumably be authorized to allow such operation by a private company on behalf of the local government, it is unclear why that authorization would not encompass allowing monitoring and reporting of emissions by a private company operator on behalf of the local government. The commenter also claims that local government owners of a facility would have difficulties with bearing the cost and responsibility of obtaining information about, and reporting on behalf of, private company operators of the facility. However, under the final rule, local governments and other

owners and operators retain the ability to handle issues concerning costs of compliance, as well as liability, through contractual arrangements. There is no reason to assume that a local government owner would alone bear the costs of monitoring and reporting emissions in compliance with the rule. The commenter also notes that multiple operators at a single facility would have to agree (along with the owners) on selection of a designated representative for the facility. However, the commenter does not assert, much less demonstrate, that this is not feasible and cannot be addressed through underlying agreements (e.g., agreements that might require the designated representative to follow certain internal procedures involving the various operators). Moreover, a wide variety of privately and publicly owned entities have been covered by, and successfully monitoring and reporting emissions, under Phase 2 (starting in 2000) of the Acid Rain Program, which similarly imposes the monitoring and reporting requirements on owners and operators. The commenter's unsupported claims of "impracticality" or "infeasibility" are contrary to EPA's experience in the Acid Rain Program. EPA also notes that the final rule does not specify what types of individuals can be selected as designated representatives and instead gives owners and operators flexibility concerning such selection.

II. PROCESS FOR DATA COLLECTION/REPORTING, MANAGEMENT, AND DISSEMINATION

1. DATA COLLECTION METHODS (COMMENTS ON SECTION VI.B. OF THE PREAMBLE)

A. Electronic Signatures

Commenter Name: Thomas Diamond
Commenter Affiliation: Semiconductor Industry Association (SIA)
Document Control Number: EPA-HQ-OAR-2008-0508-0498.1
Comment Excerpt Number: 29

Comment: On page 16615, EPA has proposed under 40 CFR § 98.4(e) that: (e)Certification of the GHG emissions report. Each GHG emission report and any other submission under this part shall be submitted, signed, and certified by the designated representative in accordance with 40 CFR § 3.10. This section at 40 CFR § 3.10 titled "What are the requirements for electronic reporting to EPA?" provides: (a)A person may use an electronic document to satisfy a federal reporting requirement or otherwise substitute for a paper document or submission permitted or required under other provisions of Title 40 only if: (1)The person transmits the electronic document to EPA's Central Data Exchange, or to another EPA electronic document receiving system that the Administrator may designate for the receipt of specified submissions, complying with the system's requirements for submission; and (2)The electronic document bears all valid electronic signatures that are required under paragraph (b) of this section. (b)An electronic document must bear the valid electronic signature of a signatory if that signature would be required under Title 40 to sign the paper document for which the electronic document substitutes, unless EPA announces special provisions to accept a handwritten signature on a separate paper submission and the signatory provides that handwritten signature. SIA suggests that the designated representatives can accomplish signed electronic execution in one of two ways: 1. Print the document, sign it, and scan it back in. 2. Scan a copy of the designated

representative's signature and paste it in the document. The EPA confirms that either execution method is acceptable as required under 40 CFR § 3.10 for purposes of execution and the electronic submission of the GHG Report.

Response: For the response on submission methods, see the preamble, Section V.B on collection, management, and dissemination of GHG emissions data.

Commenter Name: Glenn Hamer
Commenter Affiliation: Arizona Chamber of Commerce and Industry
Document Control Number: EPA-HQ-OAR-2008-0508-0564.1
Comment Excerpt Number: 4

Comment: The Arizona Chamber suggests that the designated representatives can accomplish signed electronic execution in one of two ways: 1. Print the document, sign it, and scan it back in. 2. Scan a copy of the designated representative's signature and paste it in the document. Proposed Solution: The Arizona Chamber suggests that EPA confirm that either execution method is acceptable as required under 40 CFR § 3.10 for purposes of execution and the electronic submission of the GHG Report.

Response: For the response on submission methods, see the preamble, Section V.B on collection, management, and dissemination of GHG emissions data.

B. Use of Unique Identifiers

Commenter Name: Meg Voorhes
Commenter Affiliation: Social Investment Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0657.1
Comment Excerpt Number: 14

Comment: EPA should publish a list of identifiers for each and every facility that reports under the Proposed Rule or under any other EPA regulation (e.g., Toxic Release Inventory, acid rain reduction program, etc.). This facility data should be updated regularly throughout the year as new identifiers are assigned. Inclusion of a facility identifier in the GHG data set should be interpreted by any user of that data set as confirmation that the ID correctly matches the central list of facilities and their IDs. This facility list should also include any descriptive material that will assist users of the facility ID in understanding the scope of that ID. (Footnote 30 to Section III. A of the Proposed Rule describes the possible scope of a facility in such a way that descriptive information regarding the facility is completely appropriate.)

Response: For the response on unique identifiers for facilities and units, see the preamble, Section V.B.3 on collection, management, and dissemination of GHG emissions data.

Commenter Name: Meg Voorhes
Commenter Affiliation: Social Investment Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0657.1
Comment Excerpt Number: 15

Comment: The ability of users to aggregate information from multiple facilities into a single corporate profile is directly affected by the accurate use of identifiers and access to a definitive list of all identifiers in use. Identifiers consistent with the facility identifiers need to be assigned and used for "company level" GHG submissions where the Proposed Rule requires such submissions in the place of facility submission (e.g. vehicle manufacturers).

Response: For the response on unique identifiers for facilities and units, see the preamble, Section V. on collection, management, and dissemination of GHG emissions data. See also, preamble Section II.F. on level of reporting and Section II.I on general content of the annual GHG report..

Commenter Name: Meg Voorhes
Commenter Affiliation: Social Investment Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0657.1
Comment Excerpt Number: 16

Comment: EPA should consider requiring any owner of multiple facilities to keep records of final reports submitted under this rule, along with a definitive list of EPA facility IDs for facilities that it owns. We envision a system where publicly traded companies would be required to maintain a list of facility IDs for all their subsidiaries, whether owned directly or indirectly, and to provide this list to shareholders upon request. In this way, the ultimate owner of facilities would be able to definitively answer questions about which facilities are part of their corporate families in terms of EPA IDs.

Response: For the response on unique identifiers for facilities and units, see the preamble, Section V.B.3 on collection, management, and dissemination of GHG emissions data. See also, preamble Section II.F. on level of reporting.

Commenter Name: Laurie Burt
Commenter Affiliation: Massachusetts Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0453.1
Comment Excerpt Number: 26

Comment: Under Section VI B3 of the Preamble, Unique Identifiers for Facilities and Units, EPA proposes to create new source identification (ID) codes for this program. In addition to creating a new ID code, Massachusetts urges EPA to incorporate the ID codes for all the other air quality reporting programs, at both the facility and unit levels, and should allow users to search or navigate using those identifiers.

Response: For the response on unique identifiers for facilities and units, see the preamble, Section V.B.3 on collection, management, and dissemination of GHG emissions data.

C. Metric Units

Commenter Name: Laurie Burt
Commenter Affiliation: Massachusetts Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0453.1
Comment Excerpt Number: 27

Comment: Under Section VI B4 of the Preamble, Reporting Emissions in a Single Unit of Measure, EPA proposes that all reported GHG emissions should be in specific units of measure (e.g.: kg or metric tons per unit of time). Although every emission or through-put value will be reported in a specified unit of measure, Massachusetts urges EPA to require that each of these records includes the specific units of measure and the specific unit of time for that value. This is to ensure that anyone using the information collected by EPA will have all the necessary qualifiers needed to accurately analyze the data.

Response: EPA agrees that the data system should collect all data elements needed to analyze and quality assure emission reports. The rule specifies distinct recordkeeping and reporting requirements. In general, factors used in calculation procedures, including the units of measure and time, fall under the latter and must be reported to EPA.

D. Delegation of Authority to States for Data Collection

Commenter Name: J. Southerland
Commenter Affiliation: None
Document Control Number: EPA-HQ-OAR-2008-0508-0165
Comment Excerpt Number: 13

Comment: Facility level data are required in this proposal but in almost all cases, it is necessary to use equipment level data to determine the facility level data. It is prudent, especially with needs to verify/certify emissions as accurate that these component calculations and sources/equipment be maintained in the reporting and subsequent databases. The state databases from which the NIF are derived are built up from this same level and compatibility would be maintained. Many states utilize a web based computer system that facilitates reporting by facilities at the equipment level which provides a good existing skeleton upon which to add relatively minimal additional reporting that is accurate and reviewed closely by state agency staff before being submitted to EPA/NIF. We do not need to reinvent the wheel! Minimize federal, state and facility expense, especially in these economic hard times.

Response: EPA is committed to continuing to coordinate with other Federal and State programs to facilitate data exchange. For the response on the relationship of this rule to the NIF, see preamble Section V.B.3. on data collection methods. See also the preamble, Section II.F on the level of reporting and Section II.O on the role of States and relationship of this rule to other programs. For responses on the verification approach for this rule, see preamble Section II.N. on the Emissions Verification Approach.

Commenter Name: Dan Chartier
Commenter Affiliation: Edison Electric Institute
Document Control Number: EPA-HQ-OAR-2008-0508-0212.1b
Comment Excerpt Number: 2

Comment: The second thing that I would like to talk about is to briefly address the potential of overlapping, duplicative, and conflicting GHG systems that could result under this rulemaking. For example, at yesterday's hearing, one of the commenters suggested that EPA should allow the individual States to collect the necessary emissions data. I would suggest that this option is a disaster in the making. Very simply, such a suggestion would require 50 separate regulatory or legislative processes to be undertaken. No matter how noble the goal, the chance that all 50 programs once implemented will be identical is nearly zero. What would result would be simply 50 programs with different variations of reporting requirements, 50 jurisdictions to submit data to, potentially 50 different data formats, and potentially 50 different civil and criminal penalty systems. Such an outcome is unwelcome. To be clear on this issue, EEI in 2007 first announced its climate principles that supported a single nationwide greenhouse gas program. EEI updated those principles again in January of 2009, again, calling for a single program for reducing emissions. As part of that, implicit in that call for a single program, is a single data reporting and submission program.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Laurie Burt
Commenter Affiliation: Massachusetts Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0212b
Comment Excerpt Number: 3

Comment: Under the EPA rule, emissions and other data would be submitted directly to EPA under a new electronic reporting system. Since Massachusetts and several other States will already have had one or two years under our belt of direct electronic reporting from sources, which are, in fact, broader than EPA's proposal, Massachusetts strongly suggests and supports delegating State data collection to the States. This would simplify the reporting for facilities and ensure that States can continue to receive the data they need for their climate programs in a timely manner.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Lindsay Moseley
Commenter Affiliation: Sierra Club
Document Control Number: EPA-HQ-OAR-2008-0508-0212t

Comment Excerpt Number: 4

Comment: Under the Proposed Rule, EPA does not ask States to collect information, but it does so directly. We support efforts to centralize the data flow because it will speed implementation and reduce the burden on State regulators. It will also help make sure that data is processed in a uniform manner, thereby maintaining the integrity of the national database.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Diane Wittenberg
Commenter Affiliation: The Climate Registry
Document Control Number: EPA-HQ-OAR-2008-0508-0228s
Comment Excerpt Number: 5

Comment: We ask EPA to allow states to collect the federal mandatory greenhouse gas data on behalf of EPA.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Richard Bode
Commenter Affiliation: California Air Resources Board (CARB)
Document Control Number: EPA-HQ-OAR-2008-0508-0228a
Comment Excerpt Number: 2

Comment: We believe any goal can be met through a program that could allow delegation of greenhouse gas reporting to the states. California and other states will have programs that rely on greenhouse gas reporting and, therefore, will need the data. Along with other states, we want to work with EPA to develop language to allow for delegation of states to collect greenhouse gas emissions data. The delegation process we would also expect to work with EPA to harmonize air via existing programs with a new federal program, once the rule is passed.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Michael Gibbs
Commenter Affiliation: California Environmental Protection Agency
Document Control Number: EPA-HQ-OAR-2008-0508-0228m
Comment Excerpt Number: 1

Comment: We would like to talk about state delegation. We believe it is essential to have a seamless program that meets both the state and federal needs without requiring duplicate or inconsistent reporting on the part of facilities and other entities. Recognizing that most states already have greenhouse gas emissions targets, including the WCI states, we believe that the EPA program can best achieve this goal by allowing for the delegation of reporting to states. This approach is most efficient for reporting facilities and entities, ensuring that a single integrated report will meet the state's needs to track progress toward our emissions targets and also satisfy the reporting needs of the federal program. We understand that you have heard the same comments from other states and others, including this morning from TCR, and we add our voices to this recommendation.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3 on Data Collection Methods.

Commenter Name: Laurence K. Lau
Commenter Affiliation: Hawaii Department of Health
Document Control Number: EPA-HQ-OAR-2008-0508-0329.1
Comment Excerpt Number: 4

Comment: We seek active partnership with EPA to go beyond merely allowing states to develop their own emissions reporting. EPA should accommodate and plan for reporting through state mandatory systems and voluntary reporting systems. As an example, if EPA ends up foregoing third party verification, the IT systems should still allow for submission of third party verified information.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3 on Data Collection Methods. With respect to submission of data verified by third parties, nothing in the rule precludes this; however, the reporting schedule and data requirements under this rule must be met.

Commenter Name: Richard A. Leopold
Commenter Affiliation: State of Iowa Department of Natural Resources
Document Control Number: EPA-HQ-OAR-2008-0508-0336.1
Comment Excerpt Number: 2

Comment: The Department believes there are two options for successful greenhouse gas data collection: 1. EPA collects the data, provides the data to the States within ninety days, and the States modify or cease their existing mandatory reporting programs to avoid duplicate reporting, -Or- 2. EPA delegates the reporting program to the States and provides them with the staff and information technology resources needed to collect the data efficiently and accurately. Accepting delegation is not as simple as making minor changes to current reporting system and forms. There are many differences between the proposed rule and Iowa's current mandatory reporting system, and many key issues that need to be addressed such as: 1.Timing: The Department is required by statute to submit the previous calendar year's GHG emissions to the Governor and

General Assembly no later than September 1. If the Department were to cease collecting data and rely on EPA's data, EPA would need to process the data collected on March 31 and transfer it to the State within ninety days to allow for adequate time to prepare the report required by Iowa Code 455B.851. If the Department requested delegation, collecting and reporting the data to EPA, when would the submission deadline be? The Air Emissions Reporting Rule (AERR) requires criteria air emissions to be reported to EPA within twelve months. If EPA were to follow the AERR schedule for delegated greenhouse gas reporting, States would have until December 31, 2011 to report CY 2010 greenhouse gas emissions. Would this timeframe be sufficient for providing data for a regional or federal cap and trade program? 2. Scope & Electronic Reporting: The proposed rule requires reporting of data that the Department's Air Quality Bureau currently does not collect and/or have the information technology (IT) infrastructure to collect. Accepting delegation of EPA's proposed rule would force the Department to modify its current electronic reporting system. The proposed rule makes harmonization of Iowa's reporting system and EPA's reporting system especially difficult since the proposed rule requires various levels of reporting by sector -corporate level, facility level, and unit level. In addition, the proposed rule also requires reporting of some sectors' emissions, upstream data, and activity data that the Department currently does not collect such as: On-site electrical generation; natural gas and natural-gas liquids provided to end-users; Industrial greenhouse gases production; Carbon dioxide supplies; Nitrogen content of synthetic fertilizers; GHG Emissions from manure management systems; GHG emission rates of new vehicles and engines; and fuel economy reporting. EPA, States, Local Agencies, Tribes, and TCR have worked together to develop the Consolidated Emissions Reporting Schema (CERS) so that there is one standard, consistent reporting schema. If EPA plans to develop a reporting module with TCR, that module should be made available to States free of charge should they choose to request delegation of the reporting program. The Department is also concerned that EPA will not have time to develop a comprehensive electronic reporting system that is compliant with EPA's Cross-Media Electronic Reporting Rule (CROMERR) before the first data submittals are due on March 31, 2011.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement, as well as Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3 on Data Collection Methods. For the response on further development of CERS, see the preamble, Section V.B.5 on Data Dissemination, particularly the discussion on Sharing Data with Other Agencies and the response to comment EPA-HQ-OAR-2008-0508-0453.1 excerpt 24.

Regarding the timing of a comprehensive electronic reporting system compliant with EPA's CROMERR requirements, EPA is aware of the importance of having the database up and running for the reporting of 2010 data. See the response to comments in preamble Section V.B.3 Data Collection Methods for the steps we are planning to take to ensure this.

Commenter Name: Kevin Wanttaja
Commenter Affiliation: The Salt River Project, WEST (Western Energy Supply Transmission) Associates
Document Control Number: EPA-HQ-OAR-2008-0508-0343.1
Comment Excerpt Number: 2

Comment: Without factual basis, some assert that the GHG reporting program should be delegated to states or some non-governmental entity based on claims of greater efficiency. This

claim defies established economic theory, the track record of the existing Acid Rain program, and common sense. Most proposals to address GHG reductions include some sort of market-based regulatory approach. Consequently, if these measures are enacted, CO_2 will become a commodity that will have fungible value. Like other tradable commodities (currency, stocks, acid rain credits, etc.) there will need to be a consistent, transparent and well-understood mechanism in which to establish its value. In speaking about its current reporting program that is based on use of continuous emissions monitoring (CEM), the EPA says that, "[a]n essential feature of smoothly operating markets is a method for measuring the commodity being traded. The CEM data will supply the gold standard to back up the paper currency of emissions allowances. The CEM requirements, therefore, will instill confidence in the market-based approach by verifying the existence and value of the traded allowance." Delegating the monitoring and reporting responsibilities to individual states and other entities will inevitably lead to inconsistency in the valuation of CO_2 emissions, the tradable commodity in GHG cap-and-trade programs. This will result in an inefficient market thus defeating the underlying economic premise of a cap-and-trade emission reduction program. WEST Associates strongly recommends that EPA reject any suggestion that the mandatory GHG reporting program be balkanized by delegation to state regulators and/or other non-governmental entities.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3 on Data Collection Methods.

Commenter Name: See Table 1
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0358
Comment Excerpt Number: 3

Comment: The EPA should resist any efforts to complicate the system by delegating monitoring duties to state agencies.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3 on Data Collection Methods.

Commenter Name: Kim Dang
Commenter Affiliation: Kinder Morgan Energy Partners, L.P.
Document Control Number: EPA-HQ-OAR-2008-0508-0370.1
Comment Excerpt Number: 6

Comment: Kinder Morgan strongly supports EPA's decision to preserve an exclusive role for itself with respect to implementing reporting requirements under the Proposed Rule. Delegation of authority to the states under Section 114(b) of the Clean Air Act would have no conceivable advantage over the centralized data collection approach reflected in the Proposed Rule. Delegation of authority to states could result in inconsistent data collection and increased compliance risks. State-level implementation would inevitably increase the complexity (and cost) of compliance with the Reporting Rule, because reporting tools and requirements would be

likely to differ from state to state. In addition, some states that operate their own emission reporting programs have had difficulty implementing reliable electronic reporting tools, and have experienced frequent service outages and data format compatibility restrictions. As EPA recognizes in the Preamble to the Proposed Rule, exclusive EPA authority over data collection and enforcement is the option most likely to contain the cost of compliance, preserve the quality of data, and ensure rapid dissemination of GHG emission reports.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3 on Data Collection Methods.

Commenter Name: Helen A. Howes
Commenter Affiliation: Exelon Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0373.1
Comment Excerpt Number: 3

Comment: Exelon recommends the rule be implemented and administered at the federal level. Key aspects of the program including the calculation methods and tools, the method of reporting data, and verification requirements should be established at the national level in order to define efficient, transparent and consistent requirements for all reporters in all states. If these issues are delegated to the states, there is a potential for multiple methodologies and reporting systems to be used. Consistent requirements will allow organizations with facilities in more than one state to report the same data in the same method across the organization, and will ensure EPA has the high quality, comparable data it desires. This will also allow EPA to rollup the facility data into a national greenhouse gas inventory that can be used to check the accuracy of the current national inventory totals and assumptions. Having an accurate national inventory will be critical for international negotiations. Once the program has been established, EPA may wish to delegate some supporting roles, such as conducting verification site visits, to state agencies to more efficiently implement the program.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3 on Data Collection Methods.

Commenter Name: Traylor Champion
Commenter Affiliation: Georgia-Pacific, LLC (GP)
Document Control Number: EPA-HQ-OAR-2008-0508-0380.1
Comment Excerpt Number: 14

Comment: GP agrees that data required under this proposed rule should be reported directly to EPA rather than to individual states or other organizations. Reporting under one centralized system provides a greater assurance of consistent data reporting. EPA is specifying electronic reporting of GHG emissions reports. GP urges EPA to include a downloading capability from the electronic system to facilitate quality assurance/quality control by reporters prior to finalizing the submittals to the agency. This capability is provided by the CERCLA 313 reporting system.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3 on Data Collection Methods.

Commenter Name: Angela Burckhalter
Commenter Affiliation: Oklahoma Independent Petroleum Association (OIPA)
Document Control Number: EPA-HQ-OAR-2008-0508-0386.1
Comment Excerpt Number: 35

Comment: EPA requests comments on delegating this reporting program authority to State agencies that request such authority. Many times the state air agency begins to implement/regulate entities before they have primacy for the program. During this time frame, the regulated community is submitting information to the State as well as to EPA. This has placed additional burdens on small independent oil and gas operators and operators of marginal oil and gas wells. It is duplicative and unnecessary and provides no environmental benefit. We request EPA ensure that the regulated community is not submitting duplicate data unnecessarily to two agencies.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3 on Data Collection Methods.

Commenter Name: Douglas P. Scott
Commenter Affiliation: Illinois Environmental Protection Agency (Illinois EPA)
Document Control Number: EPA-HQ-OAR-2008-0508-0387.1
Comment Excerpt Number: 8

Comment: The rule should allow states and other recognized entities to have the federal mandatory GHG data reported to them in addition to U.S. EPA, if they so desire.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement. Also see Section I.E which states "EPA agrees that State and regional programs are crucial to achieving emissions reductions, and this rule does not preempt any other programs."

Commenter Name: Fiji George
Commenter Affiliation: El Paso Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0398.1
Comment Excerpt Number: 4

Comment: The scope and breadth of climate change is global in nature. The goals defined by the EPA for the reporting rule are aimed at assisting policy makers with future actions on climate change. Historical authority retained by states under the Clean Air Act for criteria pollutants has been well served for the most part since the emissions are essentially localized in nature. To

ensure that optimum legislative or regulatory policies are instituted both national and global, we urge EPA to retain the authority related to administration of the reporting rule.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: John M. Batt
Commenter Affiliation: Airgas, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0408.1
Comment Excerpt Number: 17

Comment: The EPA should not delegate any authority to States or other agencies to collect the information required by this proposed rule.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: See Table 8
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0412.1
Comment Excerpt Number: 17

Comment: Exclusive enforcement authority should rest with EPA. To achieve the purposes of a national inventory, EPA should have exclusive authority to enforce the final inventory rule. Providing exclusive authority to EPA will help ensure uniform enforcement and, therefore, uniformity in compliance strategies and data quality. Competing or conflicting enforcement across states and regions will impede compliance and undermine the validity of the national inventory. Moreover, enforcement by individual states invites tension between a state's perceived self-interest (particularly if the state has its own GHG reporting regime) and the interests of the national program.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Janice Adair
Commenter Affiliation: Western Climate Initiative (WCI)
Document Control Number: EPA-HQ-OAR-2008-0508-0443.1
Comment Excerpt Number: 8

Comment: WCI recommends that the U.S. EPA rule provide an option for program authorization of greenhouse gas reporting to states that have reporting programs and control

program needs. States have a long and proven track record for collecting quality data and reporting it reliably in the federal data base in a timely fashion. WCI is moving toward implementation of a reporting program on the same schedule as U.S. EPA, with first reports due in 2011, and implementation of a cap-and-trade program by 2012. The WCI jurisdictions will rely heavily on emissions reporting to support cap-and trade and other GHG control programs. We also understand industry concerns about the costs of complying with duplicative reporting requirements. In addition, consistent quantification methods and compatible emissions database design are imperative for proper functioning of a cap and trade program that is harmonized among US states and Canadian provinces, as per the WCI design. States that are actively monitoring and controlling GHG emissions would be in a strong position to harmonize federal and state reporting requirements and run reporting programs that meet federal and state needs. This avoids for U.S. EPA the problem of incorporating the varying needs of states into the federal program. U.S. EPA, in turn, is in the best position to judge whether state requirements adopted through regulation are "consistent and adequate." Where states adopt rules that meet federal requirements and U.S. EPA accepts the data collected by states, duplicative reporting can be avoided. An example of states' particular data needs is electricity imports. Under the WCI framework deliverers of electricity would report power transactions, so that the emissions associated with imported electricity will be accounted for through allowances in the cap-and-trade system. State delegation would allow such needs to be addressed through the overall reporting framework, at least until a federal cap-and-trade program is implemented. In the absence of authorization, the WCI states would at least need to put in place supplementary reporting requirements to address electricity imports.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Tracy Babbidge
Commenter Affiliation: Connecticut Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0449.1
Comment Excerpt Number: 3

Comment: States should be clearly authorized in the final GHG reporting rule to directly collect GHG emissions data from their sources if they choose to do so. The EPA's technical guidance regarding calculation methodology and the scope of included activities will provide an excellent foundation for program consistency among States that choose to collect the data directly.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Mary Uhl
Commenter Affiliation: New Mexico Environment Department
Document Control Number: EPA-HQ-OAR-2008-0508-0450.1
Comment Excerpt Number: 6

Comment: New Mexico recommends that the U.S. EPA rule provide an option allowing states that have reporting programs and control program needs to collect greenhouse gas emissions data reports required under this rule. New Mexico has implemented a mandatory greenhouse gas emissions reporting program, and is currently receiving emissions reports for emissions year 2008. We will be modifying our regulations this year, consistent with the WCI reporting program recommendations, developed in anticipation of implementation of a WCI cap-and-trade program by 2012. New Mexico and other states that are actively monitoring and controlling GHG emissions are in a strong position to harmonize federal and state reporting requirements and to run reporting programs that meet federal and state needs. Where states adopt rules that meet or exceed federal requirements and U.S. EPA accepts the data collected by states, duplicative reporting can be avoided.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Laurie Burt
Commenter Affiliation: Massachusetts Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0453.1
Comment Excerpt Number: 1

Comment: In August 2008, Governor Deval Patrick signed the Global Warming Solutions Act into law, making Massachusetts one of the first states in the nation to move forward with a comprehensive regulatory program to address Climate Change. The Act requires an 80 percent reduction of GHG emissions economy-wide by 2050, with a 2020 target between 10 and 25 percent below 1990 levels. Massachusetts has already promulgated GHG reporting regulations under the Act, and GHGs emitted during 2009 will be the first data reported. Under EPA's proposed rule, GHG emissions and other data would be submitted directly to EPA under a new electronic reporting system. Since Massachusetts and several other states will already have one or more years of direct electronic reporting from sources which is broader than EPA's proposal, Massachusetts strongly supports allowing states to collect GHG emissions data on behalf of EPA. This would simplify reporting for facilities and ensure that states continue to receive the data they need to support their climate programs in a timely manner.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: See Table 5
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0480.1
Comment Excerpt Number: 12

Comment: Section 114 of the CAA grants EPA discretion to delegate the implementation and enforcement of the proposed regulations, including data collection, to the states. EPA elected not to exercise that discretion, and INGAA supports EPA's decision. As noted in the preamble, the

intent of this proposed rule is to collect accurate and consistent GHG data that can be used to inform future decisions. Delegation risks creating an implementation and enforcement patchwork, with the states' varying interpretations undermining the internal consistency and quality of the data. Delegation also poses particular concern for interstate natural gas pipelines, since individual states might impose inconsistent, even conflicting, operating requirements on our integrated multi-state transportation systems.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Erik Bakken
Commenter Affiliation: Tucson Electric Power Company
Document Control Number: EPA-HQ-OAR-2008-0508-0489.1
Comment Excerpt Number: 5

Comment: Emission reports should be submitted to, verified by, and the program should be administered by EPA. TEP believes that any program aimed at reducing GHG emissions should be federally administered, and cover all areas of the country and all sectors of the economy. As the Proposed Rule is intended to provide the basis for any potential federal GHG reduction programs, it follows that the reporting program should likewise be federally administered and comprehensive in scope.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role o f States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Leslie Bellas
Commenter Affiliation: National Lime Association (NLA)
Document Control Number: EPA-HQ-OAR-2008-0508-0520.1
Comment Excerpt Number: 55

Comment: EPA requests comments on the authority of states to collect GHG emissions data and implement this Rule. NLA suggests that EPA look to the reporting structure for Toxic Release Inventory as an exclusive federal model. Authorized states could receive a copy of each facility's emissions report when it is submitted to the EPA. A robust federal reporting program will ensure consistent and uniform reporting standards across the United States. Furthermore, if reporting GHG emissions serves as a basis for a cap and trade program, a federal reporting and cap and trade program will facilitate national (and perhaps international) trading.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods, and Section V.B.5. on Data Dissemination.

Commenter Name: Thomas W. Easterly
Commenter Affiliation: Indiana Department of Environmental Management (IDEM)
Document Control Number: EPA-HQ-OAR-2008-0508-0525.1
Comment Excerpt Number: 33

Comment: Indiana has concerns regarding the possibility of U.S. EPA delegating authority to collect GHG emissions data under this proposed rule to state agencies. At present, Indiana does not have the resources to take on this level of work. The proposed reporting rule specifies that all GHG emissions data will be collected by the affected facilities and reported directly to U.S. EPA unless a state specifically requests delegation authority. Indiana supports this approach.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: See Table 6
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0530.1
Comment Excerpt Number: 10

Comment: NGC supports EPA's decision to preserve an exclusive role for itself with respect to implementing the reporting requirements of the Proposed Rule. This will produce the most consistent and useful data and minimize complexity and administrative costs for government and private-sector entities.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Brian Schweitzer
Commenter Affiliation: Governor, State of Montana
Document Control Number: EPA-HQ-OAR-2008-0508-0541.1
Comment Excerpt Number: 3

Comment: EPA rule should provide an option for program authorization of greenhouse gas reporting to states. States have a proven track record for collecting quality data and reporting it reliably in the federal data base in a timely fashion. States are closer to emitters and better understand how they work. In the long run, the quality of data will be better if the states gather the data, either under federal rule or under their own reporting rule harmonized with the federal rule.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods. See also preamble, Section II.N. on Emissions Verification Approach for discussion

of possible roles for state and local agencies in verification of data reported under this rule.

Commenter Name: Steven M. Pirner
Commenter Affiliation: South Dakota Department of Environment and Natural Resources (SD DENR)
Document Control Number: EPA-HQ-OAR-2008-0508-0576
Comment Excerpt Number: 16

Comment: EPA is seeking comment on the possibility of delegating the authority to collect data under this rule to State agencies and the overall role of how States and EPA could interact in administering the reporting program. SD DENR recommends that EPA should implement this program. South Dakota, like a majority of the other states, is feeling the pressures of inadequate federal funding and is unable to assume this burden. If EPA allows states to be delegated the authority to collect data, EPA should give all states the ability by providing 100% federal funding throughout its implementation. As far as the overall role of how States and EPA interact in administering the reporting program, this interaction can be worked out between each State and EPA.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods. See also preamble, Section II.N. on Emissions Verification Approach for discussion of possible roles for state and local agencies in verification of data reported under this rule.

Commenter Name: Jeff A. Myrom
Commenter Affiliation: MidAmerican Energy Holdings Company
Document Control Number: EPA-HQ-OAR-2008-0508-0581.1
Comment Excerpt Number: 58

Comment: The proposed rule is designed to create a national, annual emissions inventory. In remaining true to its original purpose and to create a consistent, transparent and credible source of data, authority should not be delegated to states to collect emissions from stationary sources. As a multi-state entity, MidAmerican believes that the only acceptable outcome of this rule is to have one uniform reporting mechanism that can be incorporated easily into environmental management systems, rather than 50 or more regional, state or local reporting requirements. The proposed rule is designed to create a national, annual emissions inventory. As such, all data collected and reported must follow the exact same procedures to ensure that consistent, accurate, and credible data is obtained. Thus, delegating authority to the states is strongly discouraged. Inevitably, state legislatures will get involved, rulemaking proceedings will vary, and the end-result will be fifty (50) different sets of rules for federal greenhouse gas emissions reporting. Such a result is completely unacceptable. If states have a strong interest in the federal data reported from their state, then EPA should report emissions data back to the states on a state-specific basis when possible.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods. See also preamble, Section V.B.5 on Data Dissemination.

Commenter Name: Keith Overcash
Commenter Affiliation: North Carolina Division of Air Quality (NCDAQ)
Document Control Number: EPA-HQ-OAR-2008-0508-0588
Comment Excerpt Number: 2

Comment: The NC DAQ urges the EPA to delegate the data collection aspects of the rule to interested states, and eliminate duplicative reporting. This process takes advantage of state-level experience in collecting comprehensive facility data, and reduces delays in states getting access to reported data that are needed for their own planning purposes and legislative requirements. In addition, in recent months, facilities in our jurisdiction have been requesting assistance in quantification of GHG emissions and in communicating reporting procedures. EPA should utilize the existing infrastructure of state agencies and their ability to reach the permitted community. This proven method of implementing federal rule is likely the most technically feasible and cost-effective option. Ideally, the data would be reported in the same way as the NEI, with data flow from emission sources to the states to EPA. Because we collect criteria and hazardous air pollutant emissions, and submit them to the NEI, we feel that the GHG data would be a relatively small burden to add to the annual reporting systems, and also a small burden to the facilities that already report their criteria and hazardous air pollutants directly to the states. Considering dwindling resources, delegation efforts would require additional funding to states. We think this funding would be a good investment and will result in a net cost savings to EPA as it would reduce the costs EPA would spend on collecting and verifying the data.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods. For the response on the relationship of this rule to the NEI, see preamble Section V.B.3. on data collection methods and the response to comment EPA-HQ-OAR-2008-0508-0404.1 excerpt 2.

Commenter Name: Deborah Seligman
Commenter Affiliation: New Mexico Oil and Gas Association (NMOGA)
Document Control Number: EPA-HQ-OAR-2008-0508-0603.1
Comment Excerpt Number: 10

Comment: EPA recognizes that state and local agencies routinely interact with many of the facilities that are targets for reporting under this rule. Also, Section 114 (b) of the CAA allows EPA to delegate authority to states to implement and enforce federal rules. EPA is not proposing to formally delegate implementation of the rule to state and local agencies, but is asking stakeholders to provide feedback. "Overall, we request comments on the role of States in implementing this rule and on how States and EPA could interact in administering the reporting program." (16594) For GHG reporting, which is not a local air issue but rather a national or global issue, NMOGA would support EPA retaining full control and authority over this program until new legislative or regulatory mandates are developed. States could have a role to play in providing technical assistance on how to implement the EPA mandated data reporting.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and

relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Michael Carlson
Commenter Affiliation: MEC Environmental Consulting
Document Control Number: EPA-HQ-OAR-2008-0508-0615
Comment Excerpt Number: 37

Comment: In order to reduce the regulatory reporting burden of industrial facilities, we recommend that the agency delegate the proposed GHG reporting to the States (16595).

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Mary D. Nichols
Commenter Affiliation: California Air Resources Board (CARB)
Document Control Number: EPA-HQ-OAR-2008-0508-0616.1
Comment Excerpt Number: 2

Comment: U.S. EPA's proposal also invites comment on the role of states in the national reporting program. California and other states have some unique reporting needs reflecting state and local initiatives to reduce greenhouse gas emissions. To minimize potentially duplicative federal and state reporting requirements, the best option would be to allow states to collect the data and forward it to U.S. EPA.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Larry R. Soward
Commenter Affiliation: Texas Commission on Environmental Quality (TCEQ)
Document Control Number: EPA-HQ-OAR-2008-0508-0619
Comment Excerpt Number: 8

Comment: The EPA's proposed role and the role of the states in compliance with and enforcement of the mandatory GHG reporting rule are reasonable. The EPA will have responsibility for education and outreach, but states can assist with educating facilities and ensuring compliance "in concert with their routine inspection and other compliance and enforcement activities." The EPA will enforce violations of the mandatory reporting rule as violations of the Federal Clean Air Act. The EPA requested comments on whether it should delegate the reporting program to states that request such delegation. Program delegation should remain an option since state and regional reporting programs are currently in place. There is no sound reason that the voluntary option of delegation should not be available to states, as long as the requesting state(s) can demonstrate consistent and adequate procedures to ensure the

accuracy of the data and its efficient inclusion into the national inventory. However, the EPA should make it clear that the GHG emissions reporting rule is the national, uniform standard which any delegated programs must meet, at a minimum.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods. For responses on the verification approach for this rule, see preamble Section II.N. on the Emissions Verification Approach.

Commenter Name: Leah Donahey
Commenter Affiliation: none
Document Control Number: EPA-HQ-OAR-2008-0508-0620.1
Comment Excerpt Number: 2

Comment: EPA should resist efforts to complicate the system by delegating monitoring duties to state agencies.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Kevin Wanttaja
Commenter Affiliation: Salt River Project Agricultural Improvement and Power District (SRP)
Document Control Number: EPA-HQ-OAR-2008-0508-0623.1
Comment Excerpt Number: 4

Comment: At this time, the EPA does not propose to formally delegate implementation of the rule to State and local agencies. However, the EPA requests comments on the role of States in implementing this rule and how States and EPA could interact in administering, the reporting program. SRP believes that the mandatory reporting of greenhouse gases should remain a Federal program to be administered by the EPA and not be delegated to the States or local agencies. Delegation of the reporting program would compromise the ability of the program to provide CO, emissions data needed for future climate change policy decisions such as cap and trade.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Sam Chamberlain
Commenter Affiliation: Murphy Oil Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0625
Comment Excerpt Number: 19

Comment: EPA recognizes that State and local agencies routinely interact with many of the facilities that are targets for reporting under this rule. Also, Section 114 (b) of the CAA allows EPA to delegate authority to States to implement and enforce Federal rules. EPA is not proposing to formally delegate implementation of the rule to State and local agencies, but it asking stakeholder to provide feedback. State and local agencies have authorities to implement the requirements of the CAA and their own state and local programs. These programs are focused on dealing with local and regional air pollution and look at emissions from individual units and permitted sources. This is vastly different than what is required for GHG reporting. Murphy would support EPA retaining full control and authority over the program until new legislative or regulatory mandates are developed, if at all necessary after five years. The EPA could then delegate state control of the program provided their program meets the minimum standards of the federal requirements.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: William Fred Durham
Commenter Affiliation: West Virginia Department of Environmental Protection (DEP)
Document Control Number: EPA-HQ-OAR-2008-0508-0629.1
Comment Excerpt Number: 2

Comment: We agree that the March 31 reporting deadline may be in itself appropriate. However, as proposed it requires GHG reporting directly to EPA and removes S/L agencies from the process with respect to facilities which are already subject to traditional emission inventory reporting requirements. Existing S/L agency emissions inventory programs are subject to AERR reporting requirements for criteria air pollutants. Many S/L agencies, including the DAQ, allow their affected facilities three months to prepare and submit their emissions inventory data to them. S/Ls then have nine months to quality assure the data and report it to EPA to comply with the AERR. By mandating only direct reporting to EPA the proposed MRR will result in duplicative reporting, first GHGs to EPA and separately criteria and (where applicable) toxic air pollutants to S/Ls even though data requirements and methodology to calculate emissions of criteria and GHG emissions are nearly the same. We encourage EPA to consider allowing state and local agencies the option to serve as intermediaries between traditionally regulated facilities (i.e. those subject to traditional emission inventory reporting) and EPA, thereby taking advantage of their existing processes and procedures and applying their local knowledge of their regulated facilities to assure GHG data quality. If facilities are located within jurisdictions of agencies that elect to opt-in to the GHG inventory program, then submittal to those agencies by March 31 would satisfy the intent of the MRR. However, the S/L agencies should have until December 31 to quality assure and report the GHG and other emissions data to EPA. On the other hand, there are other agencies which do not wish to accept additional responsibility for collecting, quality assuring and reporting GHGs. In that situation we agree that affected facilities should be required to report directly to EPA.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection

Methods. For the response on submittal date, see preamble, Section II.J.1 on submittal date for annual reports.

Commenter Name: See Table 10
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0635
Comment Excerpt Number: 38

Comment: Although the federal government is rapidly catching up, state and local governments have led the way on global warming protection efforts. [footnote: See generally, e.g., Benjamin Sovacool, The Best of Both Worlds: Environmental Federalism and the Need for Federal Action on Renewable Energy and Climate Change, 27 Stan. Envtl. L. J. 397 (2008).] From California's pioneering efforts to the Regional Greenhouse Gas Initiative in New England, these governments have pioneered emissions reduction strategies. Now that the federal government is taking action, EPA should be careful to maintain the distinct advantages of a national system without chilling state efforts. We recommend, therefore, that EPA retain control of the national reporting rule, without delegating it to the states. We agree with EPA that requiring reporting directly to the federal government "would reduce the burden on reporters and State agencies, provide faster access to national emission data, and facilitate consistent [quality assurance]." The reporting rule is, after all, designed to inform national policy making – and, ultimately, an international climate control regime – and so is best implemented by the EPA, acting on a national level.[footnote: 232 Cf. Jonathan B. Weiner, Think Globally, Act Globally: The Limits of Local Climate Policies, 155 U. Pa. L. Rev. 1961 (2007).] National control will reduce implementation costs, as fifty different state agencies will not simultaneously be attempting to learn, and then police, fifty reporting systems. It will also allow reporters to rely upon uniform reporting guidance, as the managers of a centralized system, unlike those of a delegated one, can speak with a single voice. And, as EPA works to strengthen the rule and to react to unanticipated problems, it will be able to do so quickly, without working through a layer of state agencies. Finally, centralized administration will support nationally-consistent data, an important consideration in designing national policy. Nonetheless, regional, state, and local climate leadership is essential, and EPA should take steps to protect and enhance those initiatives. We support two measures EPA is taking. First, we support EPA's decision to work with the States, "without delegation ...[to] harmoniz[e] data management, where possible." EPA should map out strategies, either in the rule or in the preamble, to seamlessly share reported data with other government actors. Data-sharing will allow smaller programs to compare their protocols and results with the national inventory, and vice versa, broadening the analytic reach of these programs. EPA has already learned from the experience of state programs, drawing upon them to design this proposed rule; that vital cross-pollination must continue for the benefit of both federal and state programs. Second, we agree with EPA that regional, state, and local programs provide important services and should be encouraged. EPA should therefore ensure that the national inventory rule is not read to limit other initiatives. As EPA acknowledges, many states "may have, or intend to develop, reporting programs that are broader in scope or are more aggressive in implementation" than the proposed federal rule. EPA has every incentive not to disturb these more rigorous rules, which serve important regulatory and public education roles, and instead to learn from them and the information they generate. In addition to supporting smaller efforts by sharing information, it should make entirely clear that nothing in the national rules preempts or otherwise disturbs those programs.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of

States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods. See also preamble, Section V.B.5 on Data Dissemination. For the response on federal preemption, see preamble Section I.E

Commenter Name: Christina T. Wisdom
Commenter Affiliation: Texas Chemical Council (TCC)
Document Control Number: EPA-HQ-OAR-2008-0508-0638.1
Comment Excerpt Number: 1

Comment: The Federal Approach: TCC has long advocated for a federal, rather than a state-by-state or regional, approach to the regulation of greenhouse gas emissions. To the extent that Congress decides to regulate greenhouse gas emissions, it will need sound data as a foundation for any meaningful and sensible legislation, and this rule will help facilitate the collection of these necessary data. TCC opposes EPA delegating this program to the states. EPA is more solidly equipped to collect and manage these data, particularly since the federal agency will serve as a key resource for the U.S. Congress in its policy deliberations on greenhouse gases.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Scott Davis
Commenter Affiliation: Arizona Public Service (APS)
Document Control Number: EPA-HQ-OAR-2008-0508-0639.1
Comment Excerpt Number: 2

Comment: The Acid Rain reporting program is also much more efficient when compared against other voluntary and state reporting programs. APS believes that delegating monitoring and reporting requirements to the states and other non-governmental organizations will only serve to increase inefficiencies in future trading markets, and urges EPA to reject any proposals to delegate the reporting authority currently provided by the Acid Rain Program.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Stuart A. Clark
Commenter Affiliation: Washington State Department of Ecology (Ecology)
Document Control Number: EPA-HQ-OAR-2008-0508-0646.1
Comment Excerpt Number: 2

Comment: EPA should allow implementation of the rule to be delegated to states that already have reporting requirements: Ecology believes it is appropriate for EPA to delegate implementation of the reporting rule to those states with active reporting programs and reduction

strategies for several reasons. First, the proposed reporting rule results in duplicative and burdensome requirements for reporters that are located in states with existing reporting requirements. As currently written, the proposed rule would require reporters to submit GHG emissions data to both EPA and the state; these submissions would use different reporting protocols and require differing detail of reporting. Second, states with an existing reporting program have a vested interest in ensuring that data collected are accurate and consistent. Finally, states with an existing reporting program are in a better position to harmonize federal rule requirements within a state reporting program than EPA is able to ensure coverage of state needs.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Matthew G. Paulson
Commenter Affiliation: LLP on behalf of BCCA Appeal Group
Document Control Number: EPA-HQ-OAR-2008-0508-0649.1
Comment Excerpt Number: 3

Comment: As proposed, EPA should retain full control and authority over GHG emissions reporting and not allow formal delegation of the rule to state and local authorities.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Myra C. Reece
Commenter Affiliation: South Carolina Department of Health and Environmental Control (SC DHEC)
Document Control Number: EPA-HQ-OAR-2008-0508-0654.1
Comment Excerpt Number: 4

Comment: EPA should allow the option for states and localities to directly collect GHG data from their sources. SC DHEC believes the best data would come from data submitted by the facilities to the state and/or local programs, verified by the states and then submitted to EPA as part of the annual NEI submittal. This data is used for a variety of purposes including policy-making decisions and planning and SC DHEC feels strongly that it should be as accurate and consistent as possible. This will allow SC DHEC to verify the GHG data for accuracy, as well as streamline the reporting requirements for the facilities within the state. This single reporting schema will also minimize reporting discrepancies and will save SC DHEC considerable time and resources by not having to explain discrepancies, as we continue to have to do with the EPA's Toxic Release Inventory data.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection

Methods. For the response on the relationship of this rule to the NEI, see preamble Section V.B.3. on data collection methods and the response to comment EPA-HQ-OAR-2008-0508-0404.1 Excerpt 2.

Commenter Name: Meg Voorhes
Commenter Affiliation: Social Investment Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0657.1
Comment Excerpt Number: 17

Comment: We fully endorse the Proposed Rule on requiring submission of data directly to EPA. We oppose any decision to delegate data collection and QA to the states under existing CAA guidelines. Delegating the primary data collection tasks to the states could undermine the data quality and consistency: state budgets are under tremendous pressure in the current economic environment, and dedication of necessary resources to complete any such delegation from EPA is far from certain. Moreover, delegating data collection to the states would insert an intermediary and extra step in the process and would therefore delay the data's receipt and aggregation at the national level and release to the public. Timeliness is particularly important to investors. To the extent possible, investors prefer information that is up to date, and any delay decreases the utility of data. From our perspective, there is no reason or advantage in delegating data collection to the states.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: J. P. Blackford
Commenter Affiliation: American Public Power Association (APPA)
Document Control Number: EPA-HQ-OAR-2008-0508-0661.1
Comment Excerpt Number: 9

Comment: APPA does not advocate for allowing reporting oversight delegation to states. It would be difficult for the EPA to guarantee consistent and adequate reporting and auditing should the authority to oversee reporting be delegated to states. This could be a further challenge to APPA member utilities who have generation in multiple states and therefore could be subject to different reporting requirements or methods of maintaining data.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Mark R. Vickery
Commenter Affiliation: Texas Commission on Environmental Quality (TCEQ)
Document Control Number: EPA-HQ-OAR-2008-0508-0666.2
Comment Excerpt Number: 1

Comment: The proposal seeks comment on "the possibility of delegating the authority to State agencies that request such authority and assessing whether the State agency has procedures that are deemed consistent and adequate with the procedures outlined in this rule." Given the national and international scope of GHG emissions and impacts, the Executive Director of the TCEQ suggests EPA refrain from delegating this program to states. Greenhouse gasses exist uniformly throughout the atmosphere and do not easily lend themselves to a state or even regional solution on emission reductions. Therefore, the Executive Director of the TCEQ does not see the utility in reporting these emissions to separate states, even if such authority is requested.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Mark R. Vickery
Commenter Affiliation: Texas Commission on Environmental Quality (TCEQ)
Document Control Number: EPA-HQ-OAR-2008-0508-0666.2
Comment Excerpt Number: 2

Comment: If EPA decides to provide for the option of delegation of this program to requesting states to implement and/or enforce, it must be adequately funded. The proposal does not include a funding mechanism to cover the administrative costs of the program; the Executive Director of the TCEQ recommends that if delegation is a serious consideration, states must have the authority to recoup the costs associated with establishing the registry program, through fees or direct funding from EPA to requesting states (through Section 105 grants for example).

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: See Table 7
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0679.1
Comment Excerpt Number: 10

Comment: EPA recognizes that state and local agencies routinely interact with many of the facilities that are targets for reporting under this rule. Also, Section 114 (b) of the CAA allows EPA to delegate authority to states to implement and enforce Federal rules. EPA is not proposing to formally delegate implementation of the rule to state and local agencies, but is asking stakeholders to provide feedback. "Overall, we request comments on the role of States in implementing this rule and on how States and EPA could interact in administering the reporting program." 74 FR 68, page 16594 API comments For GHG emissions reporting, which is not a local air issue but national, API would support EPA retaining full control and authority over this program until new legislative or regulatory mandates are developed. States could have a role to play in providing technical assistance on how to implement the EPA mandated data reporting.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of

States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods. See also preamble, Section II.N. on Emissions Verification Approach for discussion of possible roles for state and local agencies in verification of data reported under this rule.

Commenter Name: Gregory A. Wilkins
Commenter Affiliation: Marathon Oil Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0712.1
Comment Excerpt Number: 30

Comment: Marathon opposes delegating authority to the states to collect GHG data. By creating a federal program, there will be standardization amongst industry sectors and facilities. If states were given authority, there would he an increased burden on companies that operate in many different states to potentially comply with different sets of requirements. An example of a current program that is difficult to use because of state authority is the National Emissions Inventory. It is difficult to use because data is coming from the states, but all states are reporting differently (for example, different sources and levels of detail). Hence, comparisons of industries or comparisons between states are not accurate. The states will have a role in technical assistance with this rule but should not be delegated authority in creating specific, individual rules.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Ron Downey
Commenter Affiliation: LWB Refractories
Document Control Number: EPA-HQ-OAR-2008-0508-0719.1
Comment Excerpt Number: 52

Comment: EPA requests comments on the authority of states to collect GHG emissions data and implement this Rule. LWB suggests that EPA look to the reporting structure for Toxic Release Inventory as a model. Authorized states could receive a copy of each facility's emissions report when it is submitted to the EPA so that there is no variation in the data collected and reported.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods. For the response on data sharing with the states, see preamble Section I.E.

Commenter Name: Alice Edwards
Commenter Affiliation: Alaska Department of Environmental Conservation (ADEC)
Document Control Number: EPA-HQ-OAR-2008-0508-0720.1
Comment Excerpt Number: 5

Comment: In its analysis, EPA has determined that direct reporting of GHG emission data is preferable to having entities report to states. States are currently required under the Air Emission

Reporting Rules to report industry data to EPA for the National Emission Inventory. States are experienced with collecting accurate, defensible data from their facilities. In addition, states will need this GHG data for use within their own state programs. ADEC requests that EPA consider providing in the final rule the ability for states to directly collect GHG data from their sources through EPA delegation. This could provide streamlining of reporting for sources to one entity, the state, and allow states to meet their own deadlines related to GHG reporting and climate change activities.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Edward N. Saccoccia
Commenter Affiliation: Praxair Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0977.1
Comment Excerpt Number: 32

Comment: Praxair does not believe that the EPA should delegate the authority to states or other agencies to collect the information required by this proposed rule.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: See Table 9
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-1021.1
Comment Excerpt Number: 14

Comment: EPA should not allow state and local agencies to collect GHG emissions data, which each would then supply to EPA. Such an option would be costly, confusing and unduly burdensome to multistate entities, which include many electric utilities, and would be administratively burdensome and costly for EPA. Very simply, delegation would require that separate legislative or regulatory processes, or both, be undertaken in each state or locality. No matter how noble the goal, the likelihood of the various programs being identical when implemented is near zero. What would result instead would be at least 50 different programs with a variety of differing reporting requirements; multiple jurisdictions to which to submit data, and multiple different data formats. Such an outcome would be unworkable and unwelcome.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Kris W. Flaig

Commenter Affiliation: California Wastewater Climate Change Group (CWCCG)
Document Control Number: EPA-HQ-OAR-2008-0508-1026.1
Comment Excerpt Number: 4

Comment: The CWCCG understands from EPA Guidance Document EPA-430-F-09-048 that, since many states have already implemented or are in the process of implementing mandatory GHG reporting and reduction programs, the EPA is taking comments on whether it should formally delegate implementation of the Reporting Rule to state and local agencies, assuming the requirements of this rule (e.g., methods and timing) are met. Since the California Air Resources Board (CARB) has already implemented a statewide mandatory GHG reporting requirement, the CWCCG asks that the EPA formally delegate implementation of its Reporting Rule to CARB to eliminate the burden of double-reporting by public agencies in California.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: G. Vinson Hellwig
Commenter Affiliation: Michigan Department of Environmental Quality (MDEQ)
Document Control Number: EPA-HQ-OAR-2008-0508-1035.1
Comment Excerpt Number: 2

Comment: Absent the use of the AERR cycle as described above, the EPA should, at the very least, consider allowing state and/or local agencies who would like to directly collect the GHG data from their sources the ability to do so through EPA delegation. This can only improve the quality and completeness of the collected data.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Matthew Frank
Commenter Affiliation: Wisconsin Department of Natural Resources
Document Control Number: EPA-HQ-OAR-2008-0508-1062.1
Comment Excerpt Number: 3

Comment: The Department supports the option of state delegation to administer this GHG reporting program. We also support partial delegation for those sectors that make sense for states to run. For example, EPA should consider reserving the right to administer the upstream reporting sectors such as fuel providers and vehicle engine manufacturers, since these reporters provide products to a national market. However, states should be able to accept delegation for those source sectors relevant to their climate change efforts, such as electrical generating facilities.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of

States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods. With respect to the comment on partial delegation, EPA determined that this would not meet our needs for prompt data collection and that implementation would be very complicated for EPA, states and reporters.

Commenter Name: Matthew Frank
Commenter Affiliation: Wisconsin Department of Natural Resources
Document Control Number: EPA-HQ-OAR-2008-0508-1062.1
Comment Excerpt Number: 38

Comment: Suppliers of Carbon Dioxide (Subpart PP) is an example of a GHG supplier a state may seek to accept delegation for administering.

Response: See comment EPA-HQ-OAR-2008-0508-1062.1 excerpt 3.

Commenter Name: Matthew Frank
Commenter Affiliation: Wisconsin Department of Natural Resources
Document Control Number: EPA-HQ-OAR-2008-0508-1062.1
Comment Excerpt Number: 37

Comment: Suppliers of natural gas and natural gas liquids (Subpart NN) is an example of a mixed source category where a state may want to take delegation for the data provided by a local distribution company, but have no interest or need to assess natural gas processing plants. EPA should consider how delegation would be implemented in this circumstance.

Response: See comment EPA-HQ-OAR-2008-0508-1062.1 excerpt 3

Commenter Name: Keith Adams
Commenter Affiliation: Air Products and Chemicals, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-1142.1
Comment Excerpt Number: 15

Comment: We do not believe that the EPA should delegate the authority to States or other agencies to collect the information required by this proposed rule, or if it is done, the programs must not be allowed to become differentiated. The only efficient approach is a singular, standardized reporting scheme for all regulated entities.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3 on Data Collection Methods.

Commenter Name: Barry R. Wallerstein
Commenter Affiliation: South Coast Air Quality Management District (SCAQMD)
Document Control Number: EPA-HQ-OAR-2008-0508-1147.1

Comment Excerpt Number: 3

Comment: Consolidated reporting via local air district or state programs would be more efficient, reduce costs, and also reduce errors. Reported greenhouse gas emission data could then be directly sent to the EPA.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3 on Data Collection Methods.

Commenter Name: J. Jared Snyder
Commenter Affiliation: New York State Department of Environmental Conservation
Document Control Number: EPA-HQ-OAR-2008-0508-1184
Comment Excerpt Number: 2

Comment: EPA should not require that States implement any portion of this rule or delegate the authority to collect data under this rule unless the rule is consistent with existing reporting requirements for criteria and HAP reporting. As EPA acknowledges in the proposed rule, many states have already established, or are in the process of developing, their own mandatory reporting rules which may be significantly different from EPA's rule. It would be very difficult for the Department to implement EPA's reporting rule as proposed because it is inconsistent with existing state reporting requirements in the number and types of affected facilities, reporting dates, and recordkeeping and monitoring requirements. It should also be noted that if EPA delegated the authority to the States to collect the information described in the proposed rule, the Department would require additional Section 105 funds in order to develop and manage a separate computer system for the collection and submittal of required information, because it does not align with the Department's existing emissions systems and EPA's own requirements for States to report criteria and HAPs.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3 on Data Collection Methods.

Commenter Name: Andrew Ginsburg
Commenter Affiliation: Oregon Department of Environmental Quality
Document Control Number: EPA-HQ-OAR-2008-0508-1463
Comment Excerpt Number: 2

Comment: The federal rules should allow for the delegation of the authority to collect GHG data to states who desire to do so.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Robbie LaBorde
Commenter Affiliation: CLECO Corporation (CLECO)
Document Control Number: EPA-HQ-OAR-2008-0508-1566
Comment Excerpt Number: 4

Comment: Cleco has proposed that the rule last only 5 years. At the end of the fifth year, the greenhouse gas emission data could be rolled over into the states' annual criteria emission inventory reporting programs. EPA could facilitate an exchange with the states to obtain this data as needed. This would minimize the burden to the regulated community of the number of required annual reports while allowing some documentation of greenhouse gas emissions for the continued detecting and following of trends.

Response: For the response on state delegation, see the preamble, Section VI.B.1 on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3 on Data Collection Methods. For the response on duration of reporting, EPA believes the need for timely, quality greenhouse gas emission data does not end in five years and, therefore, does not agree that the rule should sunset after five years.

Commenter Name: John Robitaille
Commenter Affiliation: Petroleum Association of Wyoming (PAW)
Document Control Number: EPA-HQ-OAR-2008-0508-1603
Comment Excerpt Number: 14

Comment: For GHG reporting, which is not a local air issue but national or global, PAW would support EPA retaining full control and authority over this program until new legislative or regulatory mandates are developed. States could have a role to play in providing technical assistance on how to implement the EPA mandated data reporting.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods. For responses on the verification approach for this rule, see preamble Section II.N. on the Emissions Verification Approach.

E. Use of an Electronic Reporting System

Commenter Name: J. Southerland
Commenter Affiliation: None
Document Control Number: EPA-HQ-OAR-2008-0508-0165
Comment Excerpt Number: 10

Comment: An existing reporting mechanism and computer data system exists which already unifies the state data reporting, using original equipment level information and estimates directly from facilities. It is a major error in judgment to further complicate the reporting process with a duplicate or otherwise redundant process where facilities report to a central database at EPA

where minor modifications to the existing system would solve most of the issues. The establishment of such a system at EPA would take many (at least 5 to 10 years) to fully accomplish and be extremely expensive - many times what it would be to add additional pollutants to the existing air quality reporting system. It would be extremely unwise to put a duplicative and potentially different requirements onto the individual facilities involved.

Response: See preamble Section V.B.3 on Data Collection Methods.

Commenter Name: J. Southerland
Commenter Affiliation: None
Document Control Number: EPA-HQ-OAR-2008-0508-0165
Comment Excerpt Number: 22

Comment: If the first planned year of reporting is for CY 2010, my prediction is that it will slide at least to 2011 and then coincide with the existing air reporting requirements for CY 2011. This would enhance the argument to use the already existing NIF reporting mechanism through the state delegations and thus reduce the cost and complexity of reporting for all concerned. Using the NIF would primarily require adding some 30-odd new pollutants to encompass each of the PFC's etc. and would be done with simple addition to existing data tables in the various related systems. The math/model is the same.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods. For the response on the relationship of this rule to the NIF, see preamble Section V.B.3. on data collection methods and the response to comment EPA-HQ-OAR-2008-0508-0404.1 Excerpt 2.

Commenter Name: Denise Sheehan
Commenter Affiliation: The Climate Registry
Document Control Number: EPA-HQ-OAR-2008-0508-0212k
Comment Excerpt Number: 2

Comment: The Registry has developed a Web-based program to support comprehensive voluntary greenhouse gas reporting and is working with States to support State mandatory programs via a shared reporting platform. By supporting voluntary and mandatory programs in this manner, the Registry creates a one-stop-stop reporting approach. This helps avoid duplication of reporting effort and emphasizes reporter convenience, while still supporting corporate-wide greenhouse gas reporting. The Registry is interested in working closely with EPA to link with its mandatory greenhouse gas reporting program. We would like to explore partnership opportunities to collect and share greenhouse gas data in an efficient manner, align reporting requirements, and consider other joint efforts that will help meet the needs of reporters, EPA, and the States. By working together, our goal is to ensure that EPA's data collection system, the State system, and The Climate Registry's information system are interoperable, such that data can easily be exchanged between programs and thereby reduce the reporting burden for parties reporting more than one greenhouse gas program.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of

States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods and V.B.5 on Data Dissemination.

Commenter Name: Lyle Nelson
Commenter Affiliation: WEST Associates
Document Control Number: EPA-HQ-OAR-2008-0508-0228o
Comment Excerpt Number: 3

Comment: WEST Associates believes a national greenhouse gas emissions database should be the primary platform for receiving and processing greenhouse gas emission reports and providing a uniform and relatively quick public access. Since 1995 EPA's acid rain database has successfully provided the public with data through EPA's website soon after submittal. Inclusion of greenhouse gas emissions can provide a common and consistent platform for all sources covered by mandatory greenhouse gas reporting requirements. The Climate Registry reporting requirements and various state reporting requirements envisioned under regional programs such as the Western Climate Initiative are still under development. Only EPA's acid rain reporting mechanism, the database, is well positioned to enable reporting of 2010 emissions beginning in 2010. Furthermore, EPA's clean air markets division crediting and reconciliation program can well serve to be expanded to be the basis for a national greenhouse gas emissions trade market.

Response: See the preamble, Section V.B.3 on Data Collection Methods.

Commenter Name: Diane Wittenberg
Commenter Affiliation: The Climate Registry
Document Control Number: EPA-HQ-OAR-2008-0508-0228s
Comment Excerpt Number: 6

Comment: We ask EPA to support reporting solutions that allow organizations to easily participate in voluntary reporting programs. And that has to do with inter-operability and data exchange standards.

Response: For the response on data dissemination and coordination with other programs, see the preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.5 on Data Dissemination.

Commenter Name: Diane Wittenberg
Commenter Affiliation: The Climate Registry
Document Control Number: EPA-HQ-OAR-2008-0508-0228s
Comment Excerpt Number: 8

Comment: The Registry is interested in working closely with EPA to link its mandatory greenhouse gas reporting program to our centralized GHG data collection system, and we would like explore the partnership to collect and share GHG data in an efficient manner, align reporting requirements and consider other joint efforts that will help meet the needs of all stakeholders.

Response: See comment EPA-HQ-OAR-2008-0508-0228s excerpt 6.

Commenter Name: Diane Wittenberg
Commenter Affiliation: The Climate Registry
Document Control Number: EPA-HQ-OAR-2008-0508-0228s
Comment Excerpt Number: 9

Comment: We encourage EPA to work with us to help ensure that your data collection system, the states' data collection systems, The Registry's data collection system and others of high quality are inter-operable. Such that GHG reporting requirements are consistent and data is easily exchanged. This really will result in a decreased burden and more information.

Response: see comment EPA-HQ-OAR-2008-0508-0228s excerpt 6 and EPA-HQ-OAR-2008-0508-0228k excerpt 6

Commenter Name: Mark Nordheim
Commenter Affiliation: Western States Petroleum Association
Document Control Number: EPA-HQ-OAR-2008-0508-0228k
Comment Excerpt Number: 6

Comment: There is general statements in the preamble about there being electronic data reporting system. No matter what you do, all my reporters will be on their knees begging that you create an electronic interface that will allow us to move our data into your reporting platform. Richard promised they are going to do that for us here in California. We have an electronic platform here, but we have to manually input all the data into it. So we are downloading in the 21st Century computer-based monitoring systems in our facilities and sitting at a web-based interface typing numbers.

Response: The EPA agrees that it is important that emissions data required by this rule, which are already reported to reporting systems for other EPA or State programs, should be easily transferred to the EPA GHG reporting system without having to re-enter those data manually into the EPA GHG reporting system. To the extent practicable, EPA will make the electronic format of the GHG reporting rule compatible with existing state and regional GHG reporting formats, and with the electronic reporting requirements in other EPA programs, such as the Acid Rain Program and the National Emission Inventory. Our goal is for existing data to be easily copied from one program to another by the reporters. However, given that there are likely to be differences among the data required to satisfy each different program, it is unlikely that facilities will be able to create or file a single emissions report that will satisfy all of their reporting responsibilities under these different programs. It is expected that reporters may need to modify the data they submit to other programs in order to satisfy the specific GHG reporting requirements of this rule. See also the preamble Section V.B.3. on Data Collection Methods.

Commenter Name: C. S. Ramirez
Commenter Affiliation: None
Document Control Number: EPA-HQ-OAR-2008-0508-0258
Comment Excerpt Number: 3

Comment: I am concerned about the process for submission of reports. While I appreciate the use of electronic means for transmission, I don't see anything in regards to transmission failures or errors.

Response: See the preamble, Section V.B.3 on Data Collection Methods, which describes how EPA intends to ensure that the issue of transmission failures and transmission errors will be addressed in the development of the electronic reporting system.

Commenter Name: Laurence K. Lau
Commenter Affiliation: Hawaii Department of Health
Document Control Number: EPA-HQ-OAR-2008-0508-0329.1
Comment Excerpt Number: 2

Comment: Provide for unity and ease of reporting. The rule should allow emissions reporters to submit, as practically possible, a single electronic report in the most convenient manner to comply with all required reporting and any voluntary reporting of the reporter's choice. With a well designed, electronic data system, this is possible. The reporter can simultaneously report all the emissions data to the various receiving entities (EPA, states, TCR) by having the electronic system deliver to each receiver only as much as it requires. The system, particularly IT, should be designed with reporter convenience as a central feature, compared to agency or management convenience. Make "user friendly" a reality as much as possible. The following points are related to comment number 3, below, and continue the emphasis on 'flexibility.' The rule should promote the following, in order, so long as the appropriate EPA information can be pulled and electronically forwarded to EPA. a. Allow electronic reporting to a single virtual point or portal. This "one stop" feature is critical. b. Allow a state to serve as the initial electronic receiving point for emissions data, at its option. This feature may become more important if greenhouse gas emissions reduction regulation and collection of reporting fees are delegated to or conducted by the states. c. Allow electronic reports to be submitted through different points (e.g. a state, EPA, or TCR).

Response: See the preamble, Section V.B.3 on Data Collection Methods, and V.B.5 on Data Dissemination. For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: Carl H. Batliner
Commenter Affiliation: AK Steel Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0337.1
Comment Excerpt Number: 15

Comment: AK Steel objects to the requirement for electronic reporting. This rule is sure to impact smaller businesses, especially at the 25,000-ton reporting threshold and it is inappropriate to further burden them by eliminating the option for paper submissions.

Response: EPA disagrees with the commenter. See preamble section on the collection, management, and dissemination of GHG emissions data for the response on submission methods. Also, as discussed in the preamble sections on economic impacts and on the Regulatory

Flexibility Act, EPA's analysis of the economic impact on small business indicates that this rule does not have a significant impact on small entities.

Commenter Name: Natasha Meskal
Commenter Affiliation: Ecotek
Document Control Number: EPA-HQ-OAR-2008-0508-0346
Comment Excerpt Number: 2

Comment: When designing the reporting tool, please consider to incorporate into the design the possibility for the consolidation with criteria and toxic reporting. Please remember that the three main categories in GHG reporting: stationary combustion, process emissions and fugitive emissions are already addressed in criteria/toxic reporting – same processes, same throughput, and emissions are happening simultaneously. A consolidated system will greatly help to identify additional benefits from any chosen reduction strategy, and is essential to insuring that a specific reduction strategy does not have adverse impact on other pollutants emissions. I would be happy to provide more details and elaborate further on all benefits of consolidated reporting. Also please check the paper prepared by EPA and presented during the last EPA Emission Inventory conference "Analysis of Multi-Pollutant Emissions Inventories for Key Industrial Sectors" by Anne Pope, Tina Ndoh, and Linda Chappell U.S. Environmental Protection Agency, Research Triangle Park, NC 27711 (http://www.epa.gov/ttn/chief/conference/ei18/session9/pope.pdf) that discussed the need for integrated (consolidated) multi-pollutant emission inventory data to support development of multi-pollutant sector-based strategies and concluded that multi-pollutant reporting of emissions across GHGs, CAPs, and HAPs would be more efficient for agencies, industry and EPA.

Response: For the response on the relationship of this rule to the NEI, see preamble Section V.B.3. on data collection methods and the response to comment EPA-HQ-OAR-2008-0508-0404.1 Excerpt 2.

Commenter Name: See Table 2
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0367.1
Comment Excerpt Number: 6

Comment: AXPC is also concerned that EPA's electronic reporting tool may appear at the last minute, not be robust enough for the amount of traffic it will receive, and may include requirements to report details that industry did not know to collect.

Response: See response to comment EPA-HQ-OAR-2008-0508-0336.1 excerpt 2.

Commenter Name: Helen A. Howes
Commenter Affiliation: Exelon Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0373.1
Comment Excerpt Number: 23

Comment: We recommend that data reported to the Acid Rain Program be able to be transferred directly to the greenhouse gas reporting tool developed to minimize duplicate reporting and the chance for errors.

Response: EPA agrees that reporting under this rule should minimize duplication of effort for sources in other EPA programs. The Agency is leveraging existing reporting systems to the extent feasible to handle the reporting requirements of this rule. See the preamble, Section V.B.3 on Data Collection Methods.

Commenter Name: Helen A. Howes
Commenter Affiliation: Exelon Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0373.1
Comment Excerpt Number: 8

Comment: Exelon supports the reliance on existing federal programs' data collection and reporting frameworks to the extent possible. EPA should build on the data collection and reporting processes of successful, existing programs such as EPA's Acid Rain Program, EPA's SF6 Emission Reduction Partnership and the Energy Information Administration's (EIA) natural gas and electricity reporting programs. Applicable data reported to these programs should be able to automatically transfer to the greenhouse gas reporting tools, minimizing the chance for reporting errors, the amount of data EPA needs to verify and the level of effort for reporters.

Response: see EPA-HQ-OAR-2008-0508-0373.1 Excerpt 23

Commenter Name: Angela Burckhalter
Commenter Affiliation: Oklahoma Independent Petroleum Association (OIPA)
Document Control Number: EPA-HQ-OAR-2008-0508-0386.1
Comment Excerpt Number: 13

Comment: EPA proposes that all reports will be submitted electronically. This may be burdensome on some small businesses that don't have the staff or expertise to submit the data electronically. EPA should allow small businesses to submit a hard copy of the required information.

Response: See the preamble, Section V.B.3 for the response on submission method.

Commenter Name: Douglas P. Scott
Commenter Affiliation: Illinois Environmental Protection Agency (Illinois EPA)
Document Control Number: EPA-HQ-OAR-2008-0508-0387.1
Comment Excerpt Number: 3

Comment: The rule should be able to readily interact and utilize existing established reporting programs such as TCR through partnership agreements.

Response: For the response on coordinated reporting, see Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods and V.B.5 on Data Dissemination.

Commenter Name: Fiji George
Commenter Affiliation: El Paso Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0398.1
Comment Excerpt Number: 24

Comment: In the past, on several occasions such electronic data requests have resulted in significant data entry burdens that are time and resource consuming. It is recommended that EPA consider such factors in its final decision on the reporting platform.

Response: See the preamble, Section V.B.3 on Data Collection Methods, as well as Section II.O on the role of States and the relationship of this rule to other programs. EPA is dedicated to ensuring that data entry burdens are minimized.

Commenter Name: Fiji George
Commenter Affiliation: El Paso Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0398.1
Comment Excerpt Number: 22

Comment: §98.5 Electronic Submittal of GHG Emissions Report. This provision requires that each emission report must be submitted electronically in a format specified by the administrator. El Paso is requesting EPA to provide additional information on the format EPA is looking for and an opportunity to review and provide feedback on the efficiencies of the system.

Response: See the response to comments in preamble Section V.B.3 on Data Collection Methods..

Commenter Name: Fiji George
Commenter Affiliation: El Paso Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0398.1
Comment Excerpt Number: 23

Comment: El Paso operates in 28 states and, since the reporting rule does not pre-empt existing state reporting programs already underway, we urge EPA to consider TCR's common reporting framework. TCR is a non profit collaboration among 40+ states and sovereign nations. We understand potential concerns from the EPA related to using a third party tool, but we strongly urge EPA to consider this common reporting framework to help alleviate the reporting burden on El Paso and other multi-jurisdictional reporters. Since considerable expertise was expended in developing TCR's framework, its use will avoid redundancy, alleviate the burden on EPA staff to develop such a system, and reduce costs to the tax payer in funding EPA's development of an entirely new system.

Response: See the preamble Section V.B.3 on Data Collection Methods, as well as Section II.O on the role of States and the relationship of this rule to other programs. EPA is dedicated to ensuring that data entry burdens are minimized.

Commenter Name: James P. Brooks
Commenter Affiliation: Maine Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0404.1
Comment Excerpt Number: 2

Comment: The Department disagrees with the data collection methodology proposed by EPA. Rather than establishing a new data reporting system for the mandatory GHG reporting rule, EPA should adapt the EIS to include greenhouse gases in the National Emission Inventory. Maintaining emissions data in one system will increase transparency and accessibility for the public, and consolidation with criteria pollutant and hazardous air pollutant inventories will support multi-pollutant strategies.

Response: Where feasible, EPA will modify existing programs to handle this collection, however, we believe that the requirements of this rule, facilities reporting directly to EPA, the potentially large number of registered users and CROMERR compliance, neccessitate a new data system. EPA will incorporate the results of this collection into the National Emission Inventory (NEI) alongside criteria and hazardous pollutants. To facilitate data sharing with NEI and other stakeholders, EPA will modify the Consolidated Emissions Reporting Schema (CERS) to handle the additional data elements required under this rule. For the response on CERS see the response to EPA-HQ-OAR-2008-0508-0453.1 Excerpt 24. For the response to comments on the data system, see the preamble Section V.B.3. Data Collection Methods.

Commenter Name: Steven M. Maruszewski
Commenter Affiliation: Pennsylvania State University (Penn State)
Document Control Number: EPA-HQ-OAR-2008-0508-0409.1
Comment Excerpt Number: 1

Comment: The rule proposes reporting directly to EPA via an online reporting system. EPA has specifically requested comment on this approach. Penn State agrees that reporting at the federal level is appropriate. For entities that have facilities in multiple states, it is beneficial that the reporting methodologies and procedures will be consistent. Some states have already developed GHG policies and reporting programs. It is recommended EPA coordinate with these state programs as well as the voluntary federal programs to centralize dataflow and avoid duplication of effort.

Response: For the response on state delegation, see the preamble Section VI.B.1. on the role of States in compliance and enforcement, Section II.O on the role of States and relationship of this rule to other programs, Section V.B.3. on Data Collection Methods, and Section V.B.5 on data dissemination.

Commenter Name: Laurence K. Lau
Commenter Affiliation: State of Hawaii Department of Health
Document Control Number: EPA-HQ-OAR-2008-0508-0420
Comment Excerpt Number: 2

Comment: Provide for unity and ease of reporting. The rule should allow emissions reporters to submit, as practically possible, a single electronic report in the most convenient manner to comply with all required reporting and any voluntary reporting of the reporter's choice. With a well designed, electronic data system, this is possible. The reporter can simultaneously report all

the emissions data to the various receiving entities (EPA, states, TCR) by having the electronic system deliver to each receiver only as much as it requires. The system, particularly IT, should be designed with reporter convenience as a central feature, compared to agency or management convenience. Make "user friendly" a reality as much as possible. The rule should promote the following, in order, so long as the appropriate EPA information can be pulled and electronically forwarded to EPA. 1. Allow electronic reporting to a single virtual point or portal. This "one stop" feature is critical. 2. Allow a state to serve as the initial electronic receiving point for emissions data, at its option. This feature may become more important if greenhouse gas emissions reduction regulation and collection of reporting fees are delegated to or conducted by the states. c. Allow electronic reports to be submitted through different points (e.g. a state, EPA, or TCR).

Response: For the response on state delegation, see the preamble Section VI.B.1. on the role of States in compliance and enforcement, Section II.O on the role of States and relationship of this rule to other programs, Section V.B.3. on Data Collection Methods, and Section V.B.5 on data dissemination. See also the response to comment EPA-HQ-OAR-2008-0508-0453.1 excerpt 24 on use of CERS.

Commenter Name: Lorraine Krupa Gershman
Commenter Affiliation: American Chemistry Council (ACC)
Document Control Number: EPA-HQ-OAR-2008-0508-0423.2
Comment Excerpt Number: 28

Comment: In section III.D (74 FR 16463), EPA states that the ³reports would be submitted electronically, in a format to be specified by the Administrator after publication of the final rule. To the extent practicable, [EPA] plan[s] to adapt existing facility reporting program to accept GHG emissions data. [EPA is] developing a new electronic data reporting system for source categories or suppliers for which it is not feasible to use existing reporting mechanisms.´ EPA further states in section VI.A (74 FR 16593) the ³new system would follow Agency standards for design, security, data element and reporting format conformance, and accessibility´ and ³EPA intends to develop a reporting scheme that minimizes the burden of stakeholders by integrating the new reporting requirements with existing data collection and data management systems, when feasible.´ EPA acknowledges there are many facets of the reporting scheme, none of which are described in detail in the proposal. Commenters cannot evaluate the reporting scheme without the details and cannot comment on concerns, such as ability to use the electronic system, resources needed to implement the system, and cost associated with the reporting scheme. Thus, we believe that EPA needs to propose the reporting scheme for public comment prior to finalizing it.

Response: See response to comments in preamble Section V.B.3 on submission method.

Commenter Name: Tracy Babbidge
Commenter Affiliation: Connecticut Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0449.1
Comment Excerpt Number: 2

Comment: EPA should take into account the needs of states and the regulated community and consolidate and/or harmonize reporting requirements and time frames within EPA to the maximum extent possible. To assist this effort, EPA should build upon the tremendous efforts to

date that have resulted in the development of the Environmental Inventory System (EIS). Because the EIS was designed to handle GHG data and many states have invested heavily in its development, EPA should evaluate the EIS as a platform capable of promoting the greatest consistency for reporters across multiple programs.

Response: See preamble section V.B on the collection, management, and dissemination of GHG emissions data for the response on data collection methods, as well as preamble, Section II.O on the Role of States and the Relationship of this Rule to Other Programs.

Commenter Name: Laurie Burt
Commenter Affiliation: Massachusetts Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0453.1
Comment Excerpt Number: 24

Comment: Under Section VI B1 of the Preamble, Data Collection Methods, EPA is proposing that affected sources submit the data in the requested format. Massachusetts suggests that EPA consider using the Consolidated Emissions Reporting Schema. If that is not possible, Massachusetts urges EPA to publish a standardized schema and validation rules for this system at least six months before the due date. Massachusetts suggests that the reporting system be designed to provide sources an option to either enter the information online, or to upload their data in bulk.

Response: EPA agrees that an already established reporting format should be used to submit the required data. To that end, EPA will be modifying the Consolidated Emissions Reporting Schema (CERS) to handle the reporting requirements of this rule. EPA will make a draft version of the modified CERS available at least six months prior to the reporting deadline. CERS was jointly developed by EPA's Office of Air Quality Planning and Standards and Office of Atmospheric Protection, and The Climate Registry in conjunction with State, Local, and Tribal air pollution control agencies, and industry representatives. EPA plans to use the modified CERS to handle both on-line and bulk data submission options and to share the results of this collection over the Exchange Network. See also the response on this issue in the preamble, Section V.B.5 on Data Dissemination.

Commenter Name: Laurie Burt
Commenter Affiliation: Massachusetts Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0453.1
Comment Excerpt Number: 11

Comment: Under Section IV F of the Preamble, Rationale for Selecting the Frequency of Reporting, EPA states "Facilities with ARP units that report CO_2 emissions data to EPA on a quarterly basis would continue to submit quarterly reports as required by 40 CFR Part 75, in addition to providing the annual GHG reports." Massachusetts urges EPA to automatically import applicable data reported by facilities under 40 CFR Part 75. By not directly importing this data, EPA will be creating an unnecessary double data entry burden, which increases the burden on the regulated entities and on regulators. Double reporting may also lead to discrepancies in the data due to human error. EPA or state staff would then need to reconcile these discrepancies, thus utilizing limited governmental resources. We note that this comment is consistent with our

general desire to see EPA establish a reporting system from which data can be seamlessly imported and exported for a variety of purposes.

Response: EPA agrees that reporting under this rule should minimize duplication of effort for sources in other EPA programs. See the preamble, Section V.B.3 on Data Collection Methods for a response to comments on this issue broadly, including the relationship to the ARP database. The Agency will examine the feasibility of using existing reporting systems to handle the reporting requirements of this rule.

Commenter Name: See Table 4
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0455.1
Comment Excerpt Number: 14

Comment: In Section HID of the Proposal's preamble, the Agency proposes that data will be submitted in an electronic format prescribed by EPA. The Class of '85 commends EPA for taking this approach, as the data reported will be uniform across the sources reporting. The Class of '85 further encourages EPA to build into their electronic data system as many routine calculation activities as possible, such as conversion of GHGs to CO_2 equivalent and conversion from English to metric units. Although these types of calculations do not seem significant, in the larger picture, having one electronic data system conduct these functions uniformly is more efficient and less costly than requiring the estimated 13,000 covered facilities to individually perform these functions.

Response: EPA agrees with the commenter and intends to take this into consideration when developing the electronic data system. See preamble, Section V.A. section on the collection, management, and dissemination of GHG emissions data for the discussion on reporting emissions in a single unit of measure.

Commenter Name: J. Michael Kennedy
Commenter Affiliation: Florida Electric Power Coordinating Group
Document Control Number: EPA-HQ-OAR-2008-0508-0473.1
Comment Excerpt Number: 9

Comment: EPA's proposed rule fails to take into account the need for "agents" to make electronic submissions on behalf of the DR. EPA proposes not only to allow, but to mandate electronic submission of data under the rule. Experience with electronic reporting under Part 75 has shown that DRs are often not the appropriate person to perform the tasks associated with the actual electronic submittal (as opposed to certification of the data). Early in the implementation of the ARP, EPA interpreted its rules as allowing for the use of agents to make submittals. EPA should include a similar provision in this rule.

Response: See preamble, Section V.B.1 on Designated Representatives, Alternative Designated Representatives, and Agents for the response on agents.

Commenter Name: See Table 5
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0480.1
Comment Excerpt Number: 15

Comment: An Electronic Reporting Tool Should Be Developed Before Reporting Begins. EPA proposes to develop an electronic tool for reporting GHG emissions. While INGAA supports developing a tool that will make GHG reporting more streamlined and efficient, we urge EPA to provide an opportunity for stakeholders to comment and provide input to the process. The development of reporting tools in other GHG reporting programs, such as the California Registry and the Regional Greenhouse Gas Initiative, benefited greatly from the input of stakeholders. Most INGAA members operate in multiple jurisdictions and since the reporting rule does not pre-empt existing state reporting programs already underway, we strongly urge the EPA to consider TCR's common reporting framework. As mentioned earlier, TCR is a non-profit collaboration of over 40 states and sovereign nations. We understand potential concerns from the EPA related to using a third-party tool, but we ask EPA to consider the common reporting framework to help alleviate the reporting burden on INGAA and other multi-jurisdictional reporters. Since considerable expertise was expended to developing TCR's framework, using it will avoid redundancy, spare EPA staff the burden of developing a separate system, and eliminate the costs that would otherwise need to be expended for EPA to develop an entirely new system.

Response: See the preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.5. on Data Dissemination. EPA intends to involve stakeholders as we develop the database. See the response in the preamble, Section V.B.3 on Data Collection Methods.

Commenter Name: Carol E. Whitman
Commenter Affiliation: National Rural Electric Cooperative Association (NRECA)
Document Control Number: EPA-HQ-OAR-2008-0508-0483.1
Comment Excerpt Number: 3

Comment: In section VI.A of the preamble, EPA states, EPA intends to develop a reporting scheme that minimizes the burden of stakeholders by integrating the new reporting requirements with existing data collection and data management systems, when feasible. We strongly urge EPA to do whatever they can to integrate the reporting under this proposed rule with the reporting under existing programs. For our members in particular, the two most important programs to integrate with this proposed effort are the reporting of continuous emissions monitoring system (CEMS) data under the Clean Air Act and EPA's SF6 Emission Reduction Partnership for Electric Power Systems. This includes integration of both the data management and reporting systems and the underlying methodologies. In doing so, EPA would minimize the cost of reporting under this proposed rule. In addition, EPA would help minimize the problems for the reporting entities that are associated with having conflicting sets of data in the public domain by synchronizing the emissions measurement and quantification protocols.

Response: EPA agrees that reporting under this rule should minimize duplication of effort for sources in other EPA programs. The Agency will examine the feasibility of using existing reporting systems to handle the reporting requirements of this rule. At this time EPA is not going final with the Sulfur Hexafluoride (SF6) from Electrical Equipment subpart. As we

consider next steps, we will be reviewing the public comments and other relevant information. Thus, we are not responding to comments on this subpart at this time.

Commenter Name: Paul R. Pike
Commenter Affiliation: Ameren Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0487.1
Comment Excerpt Number: 11

Comment: EPA proposes under § 98.3(e) to require that each submission under the program be signed and certified in accordance with 40 C.F.R. § 3.10 of the Cross Media Reporting Rule ("CROMERR"). CROMERR allows sources to use electronic documents to satisfy a federal reporting only if (1) The person transmits the electronic document to EPA's Central Data Exchange, or to another EPA electronic document receiving system that the Administrator may designate for the receipt of specified submissions, complying with the system's requirements for submission; and (2) The electronic document bears all valid electronic signatures that are required under paragraph (b) of this section. 40 C.F.R. § 3.10. CROMERR also provides for federal civil and criminal penalties for "failure to comply with a federal reporting requirement" if a person submits an electronic document to EPA without complying with § 3.10. Id. at § 3.4. CROMERR was promulgated to comply with the mandate of the Government Paperwork Elimination Act ("GPEA") of 1998 that agencies provide the option of electronic submission of information as a substitute for paper when practicable, and for the use and acceptance of electronic signatures, when practicable. 70 Fed. Reg. 59848, 59849. CROMERR was not intended to mandate electronic reporting or to create liability for failure to meet electronic reporting requirements over which sources have limited, or no control. EPA's proposal, under § 98.5, to mandate electronic submission of reports "in the format specified by the Administrator" has the potential to remove from sources' control many or all aspects of their compliance with CROMERR. Under the Part 75 reporting system for the ARP, discussed above, EPA has used identical language to mandate that emission reports be submitted via the internet using EPA supplied software. Although EPA has represented its recently redesigned software as meeting the electronic signature requirements of CROMERR, whether it does or not is completely out of the sources' control. EPA gives sources the software and they must use it whether or not it meets the electronic signature requirements of CROMERR. Moreover, when technical difficulties with EPA's software, the EPA server that receives data, the source's internet connection, or some other technical issue prevent the source from submitting with EPA's software through the internet to the designated "electronic document receiving system," the source cannot comply with Part 75 and cannot comply with § 3.10, because EPA has not provided an alternative designated "receiving system" or another means of satisfying the electronic signature requirement. Although EPA has never attempted to enforce against a source for failure to comply with Part 75 or CROMERR due to these technical difficulties, Ameren believes that EPA should not maintain this potentially problematic situation. If EPA intends CROMERR to apply, EPA must provide in this rule sufficient options for electronic, or paper, submittal to allow sources to (1) determine on their own whether their submittals comply with CROMERR, and (2) comply with CROMERR under a variety of circumstances.

Response: CROMERR was promulgated on October 5, 2005. In this rule, the Agency has not sought comment on CROMERR. CROMERR does not require electronic reporting, rather it sets out the rules that must be followed if certain documents are submitted to EPA electronically. Before a source may submit documents electronically, EPA must designate a reporting system.

Any EPA system employing electronic reporting must meet the requirements of CROMERR. The commenter appears to misunderstand the CROMERR process. It does not contemplate that the source will have control over how to comply with CROMERR, rather it provdes that EPA will ensure that its electronic reporting system complies with CROMERR. Any source then submitting doeuments in compliance with that system also will be in compliance with CROMERR. The issue of transmission failures and transmission errors will be addressed in the development of the electronic reporting system. EPA agrees that is it important for data reporters to be able to confirm that their data were accepted by the system and to compare the data in the system to the data that they reported to ensure it was accurately incorporated into the database. Furthermore, see preamble section on the collection, management, and dissemination of GHG emissions data for the response on submission methods.

Commenter Name: Paul R. Pike
Commenter Affiliation: Ameren Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0487.1
Comment Excerpt Number: 10

Comment: EPA proposes under § 98.5 to require that each emissions report be "submitted electronically ...in a format specified by the Administrator." EPA asserts that reporting in electronic format will reduce burdens on facilities and EPA and that by "not specifying the exact reporting format in the regulatory text, EPA maintains the flexibility to modify the reporting format and tools in a timely manner." 74 Fed. Reg. 16594. Ameren believes that if EPA creates the format itself, as opposed to the requirement to submit the information, a regulatory requirement, EPA has an obligation to subject that format to notice and comment rulemaking and review by the Office of Management and Budget ("OMB"). The EPA electronic reporting formats specified to date by the Administrator have been sufficiently complex and substantive that it is not appropriate to totally exempt them from rulemaking. To the extent some flexibility is needed to make adjustments to the format that flexibility can be provided by rule. ARP sources have spent years and hundreds of thousands (if not millions) of dollars attempting to comply with these EPA-specified formats. The formats and related instructions for the ARP are hundreds, if not thousands, of pages in length with little or no citations to the underlying rule requirements. In some cases, the formats have included requirements to submit data that are not otherwise required to be reported under the rules. Each time EPA makes a revision to the format, software, or instructions, sources are required to respond. In some cases, this response requires modifications to the sources' own monitoring software as significant cost. Although EPA has responded to the utility industry's concerns by informally soliciting comment on the formats and instructions, committing to reducing the number of revisions to the format, and, in a recent redesign of the format, held stakeholder meetings and provided contractor "technical support" during business hours, those efforts alone cannot cure this defect in the rule. As implemented, EPA's electronic formats are substantive requirements that can impose significant burdens and impact sources' compliance status. Although for most industries, reporting of GHG emissions under this rule will be much less complicated and involve significantly less data than reporting under Part 75, the "flexibility" EPA references could still translate into significant unexpected burdens.

Response: EPA believes the ARP model has proven successful since 1995. Specifically, with respect to notice and comment requirements in the context of this rulemaking, as stated in Section V.B.3. of the preamble, this approach has been followed in other programs and commenters have been given the opportunity in this rulemaking to comment on the propriety of

application of this approach. EPA has considered commenter's concerns and believes that commenter's opportunity to address each of the specific data elements required by the various subparts of the rule sufficiently addresses this concern, particularly when weighed against the timing requirements of the rule and system design. The final rule sets forth the monitoring and reporting requirements applicable to reporters – the data system is merely the vehicle for transmitting the data to EPA (and for EPA to quality check the data). The data system will not change the requirements of this rule. Thus, it is not necessary that EPA subject the data format to public notice and comment. A number of commenters have recognized and specifically supported EPA's approach. It is therefore reasonable for EPA to retain flexibility in *design* of the system, particularly as commenters have been given the opportunity to address the substance of what is required to be reported under such a system. To submit the system design itself to notice and comment is unreasonable and should be left to the Agency's discretion in implementation of the rule's reporting requirements. As noted by the commenter, the EPA has, in the past, conducted stakeholder outreach and provided the opportunity to comment on reporting format revisions and intends to do so similarly with respect to the data system for this rule. In addition, the EPA has developed and provided comprehensive reporting software free of charge to ARP reporters. Similarly, EPA intends to provide an electronic data system to guide reporters through the registration, report preparation and submittal process for this rule. Finally, EPA anticipates that the draft XML reporting schema for the reporting system will be at least 6 months prior to the reporting deadline. As has been its past practice, specifically as relates to the ARP, EPA intends to provide notice of revisions to affected sources and stakeholders and provide opportunity for comment and input at the time of any future revisions.

Commenter Name: Lauren E. Freeman
Commenter Affiliation: Hunton & Williams LLP
Document Control Number: EPA-HQ-OAR-2008-0508-0493.1
Comment Excerpt Number: 19

Comment: UARG is surprised that EPA did not acknowledge in its discussion that the ARP provision to which it refers was challenged judicially in part because of the flexibility EPA has retained for itself, and that the litigation has not yet been resolved. Under Part 75, reports must be submitted in a "format to be specified by the Administrator, including electronic submission of data" by "direct computer-to-computer electronic transfer via EPA-provided software, unless otherwise approved by the Administrator." 40 C.F.R. § 75.64(d) and (f). UARG challenged these provisions based on concerns regarding the nature and content of EPA's format, which the Agency has changed with some frequency, and the lack of pre-approved procedures for submitting reports when a source is unable to gain access to EPA's computer with the EPA-provided software, or connect to the internet in a secure environment. See Appalachian Power Co., et al., v. EPA, No. 99-1302 (D.C. Cir., filed July 23, 1999); Utility Air Regulatory Group v. EPA, No. 02-1254 (D.C. Cir., filed August 12, 2002). These cases have been held in abeyance pending discussions aimed at resolving these concerns. As UARG explained in the Part 75 rulemaking, if EPA makes the format itself (as opposed to the requirement to submit the information) a regulatory requirement, EPA has an obligation to subject that format to notice and comment rulemaking and review by the Office of Management and Budget ("OMB"). The EPA electronic reporting formats specified to date by the Administrator have been sufficiently complex and substantive that it is not appropriate to totally exempt them from rulemaking. To the extent some flexibility is needed to make adjustments to the format, that flexibility can be provided by rule. ARP sources have spent years and hundreds of thousands (if not millions) of dollars attempting to comply with these EPA-specified formats. The formats and related

instructions for the ARP are hundreds, if not thousands, of pages in length with little or no citations to the underlying rule requirements. In some cases, the formats have included requirements to submit data that are not otherwise required to be reported under the rules. Each time EPA makes a revision to the format, software, or instructions, sources are required to respond. In some cases, this response requires modifications to the sources' own monitoring software at significant cost. Although EPA has responded to the utility industry's concerns by informally soliciting comment on the formats and instructions, committing to reducing the number of revisions to the format and, in the recent redesign of the format, holding stakeholder meetings and providing contractor "technical support" during business hours, those efforts alone cannot cure what UARG believes is a legal defect in the rule. As implemented, EPA's electronic formats are substantive requirements that can impose significant burdens and impact sources' compliance status. Although for most industries, reporting of GHG emissions under this rule will be much less complicated and involve significantly fewer data than reporting under Part 75, the "flexibility" EPA references could still translate into significant unexpected burdens. In any event, regardless of the amount of new data required to be submitted by Egos under this rule, UARG opposes the proposed provision in light of its outstanding challenge to virtually identical language in Part 75.

Response: See preamble, SectionV.B.3 on Data Collection Methods for the response on submission methods. See also response to comment EPA-HQ-OAR-2008-0508-0487.1, excerpt 10. Further, as noted by commenter as EPA has done in the past as relates to the ARP, will, as relates to the reporting format hereunder, continue to provide assistance, and, when sought and resultantly necessary, although rare based on past practice, appropriate time extensions. As indicated by commenter, similar issues are the subject of litigation unrelated to this rule and due to the ongoing nature of that litigation, EPA is not addressing any comments on that litigation. As noted by commenter, those cases have been held in abeyance for more than five years as the parties continue discussions to resolve issues raised by the litigants. Inasmuch as the Agency was instructed by Congress to issue a final rule within 18 months of enactment of the FY2008 Appropriations Act (e.g., June 26, 2009), it is important and reasonable that the Agency retain the flexibility to timely craft a reporting data system. As stated in the preamble, EPA is committed to conducting outreach and providing opportunities for stakeholder feedback and EPA recognizes the value of integrating the GHG data reported under this rule with other emission reporting programs, as appropriate.

Commenter Name: Lauren E. Freeman
Commenter Affiliation: Hunton & Williams LLP
Document Control Number: EPA-HQ-OAR-2008-0508-0493.1
Comment Excerpt Number: 12

Comment: EPA's proposed rule also fails to take into account the need for "agents" to make electronic submissions on behalf of the DR. As discussed below, EPA proposes not only to allow, but to mandate, electronic submission of data under the rule. Experience with electronic reporting under Part 75 has shown that DRs are often not the appropriate person to perform the tasks associated with the actual electronic submittal (as opposed to certification of the data). Early in the implementation of the ARP, EPA interpreted its rules as allowing for the use of agents to make submittals. In 2006, to remove any uncertainty regarding the lawfulness of using agents, EPA revised Parts 72 and 96 to explicitly allow for the use of "agents" by DRs and NOx authorized account representatives under the ARP, NBP, and CAIR. 71 Fed. Reg. 25,328,

25,363-64 (April 28, 2006); see, e.g., 40 C.F.R. §§ 72.26, 73.33(g), 96.115. EPA should include a similar provision in this rule.

Response: See preamble, Section V.B.1 on Designated Representatives, Alternative Designated Representatives, and Agents for the response on agents.

Commenter Name: Lauren E. Freeman
Commenter Affiliation: Hunton & Williams LLP
Document Control Number: EPA-HQ-OAR-2008-0508-0493.1
Comment Excerpt Number: 20

Comment: EPA proposes under § 98.3(e) to require that each submission under the program be signed and certified in accordance with 40 C.F.R. § 3.10 of the Cross Media Electronic Reporting Rule ("CROMERR"). CROMERR allows sources to use electronic documents to satisfy a federal reporting requirement only if: (1) The person transmits the electronic document to EPA's Central Data Exchange, or to another EPA electronic document receiving system that the Administrator may designate for the receipt of specified submissions, complying with the system's requirements for submission; and (2) The electronic document bears all valid electronic signatures that are required under paragraph (b) of this 40 C.F.R. § 3.10. CROMERR also provides for federal civil and criminal penalties for "failure to comply with a federal reporting requirement" if a person submits an electronic document to EPA without complying with § 3.10. Id. at § 3.4. CROMERR was promulgated to comply with the mandate of the Government Paperwork Elimination Act of 1998 that agencies provide the option of electronic submission of information as a substitute for paper when practicable, and for the use and acceptance of electronic signatures, when practicable. 70 Fed. Reg. 59,848, 59,849. CROMERR was not intended to mandate electronic reporting or to create liability for failure to meet electronic reporting requirements over which sources have limited or no control. EPA's proposal, under § 98.5, to mandate electronic submission of reports "in the format specified by the Administrator" has the potential to remove from sources' control many or all aspects of their compliance with CROMERR. Under the Part 75 reporting system for the ARP, discussed above, EPA has used identical language to mandate that emission reports be submitted via the internet using EPA-supplied software. Although EPA has represented that its recently redesigned software meets the electronic signature requirements of CROMERR, whether it does or not is completely out of the affected sources' control. EPA gives sources the software and they must use it whether or not it meets the electronic signature requirements of CROMERR. Moreover, when technical difficulties with EPA's software, the EPA server that receives data, the source's internet connection, or some other technical issue prevent the source from submitting with EPA's software through the internet to the designated "electronic document receiving system," the source cannot comply with Part 75 and cannot comply with § 3.10, because EPA has not provided an alternative designated "receiving system" or another means of satisfying the electronic signature requirement. Although EPA has never attempted to enforce against a source for failure to comply with Part 75 or CROMERR due to these technical difficulties, UARG cannot accept a rule that perpetuates this flawed approach. If EPA intends CROMERR to apply, EPA must provide in this rule sufficient options for electronic, or paper, submittal to allow sources to (1) determine on their own whether their submittals comply with CROMERR, and (2) comply with CROMERR under a variety of circumstances. If EPA intends to require by rule that sources use only EPA-provided software to submit their reports, the submission should be exempted from CROMERR, because EPA (not the source) would already control everything that CROMERR was intended to address.

Response: To the extent similar issues might be the subject of current, on-going litigation unrelated to this rule, EPA is not addressing comments on that litigation. For the response on CROMERR see the response to EPA-HQ-OAR-2008-0508-0487.1 Excerpt 11.

Commenter Name: Barbara A. Walz
Commenter Affiliation: Tri-State Generation and Transmission Association, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0495.1
Comment Excerpt Number: 3

Comment: Tri-State strongly urges EPA to integrate reporting under this proposed rule with reporting under existing programs, such as the reporting of continuous emissions monitoring system (CEMS) data under the Clean Air Act. This includes integration of both the data management and reporting systems and the underlying methodologies. In doing so, EPA would minimize the cost of reporting under this proposed rule. In addition, EPA would help minimize government agencies' exposure to having conflicting sets of data in the public domain.

Response: EPA agrees that reporting under this rule should minimize duplication of effort for sources in other EPA programs including the ARP. See the preamble, Section V.B.3 on Data Collection Methods for the response on the use of existing reporting systems to handle the reporting requirements of this rule.

Commenter Name: Rich Raiders
Commenter Affiliation: Arkema Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0511.1
Comment Excerpt Number: 15

Comment: Many of the current climate reporting markets, such as the current voluntary EPA HFC reporting system (which is modeled after the existing EPA ODS reporting system), EPA Climate Leaders, and the Climate Registry, require corporate wide annual GHG reporting systems. EPA operates a voluntary HFC reporting system based on the existing EPA ODS corporate-wide reporting system. In these systems, reporters roll up all emissions from all controlled facilities, and report annual GHG or ODS emissions for the aggregated group. All submittal protocols, including approval by the designated representative, are managed at the corporate level for production, imports, exports, and supply reporting. As a participant in both the EPA ODS and HFC reporting systems, Arkema supports EPA's approach used during design and implementation of these data systems, and believes that the existing systems would serve as appropriate starting points for EPA to build a reporting system from. EPA should build from the existing infrastructure when designing the upcoming GHG reporting system, thereby avoiding effort duplication.

Response: EPA agrees that reporting under this rule should minimize duplication of effort for sources in other EPA programs. The aggregation of results proposed by the commenter will not satisfy those parts of this rule that require facility level emissions. See the preamble, Section V.B.3 on Data Collection Methods for the response on the use of existing reporting systems to handle the reporting requirements of this rule.

Commenter Name: Charlie Burd and Nicholas DeMarco
Commenter Affiliation: Independent Oil and Gas Association of West Virginia (IOGA-WV) and West Virginia and Natural Gas Association (WVONGA)
Document Control Number: EPA-HQ-OAR-2008-0508-0516.1
Comment Excerpt Number: 15

Comment: EPA proposes to require that each emissions report be "submitted electronically ...in a format specified by the Administrator." EPA asserts that reporting in electronic format will reduce burdens on facilities and EPA and that by "not specifying the exact reporting format in the regulatory text, EPA maintains the flexibility to modify the reporting format and tools in a timely manner" NOPR 74 Fed. Reg. 16594. If EPA makes the format (itself) a regulatory requirement, EPA should subject that format to notice and comment rulemaking. Each time EPA makes a revision to the format, software, or instructions, sources are required to respond. In some cases, this response requires modifications to the sources' own monitoring software at significant cost. As implemented, EPA's electronic formats are substantive requirements that can impose significant burdens and impact sources' compliance status.

Response: See preamble, Section V.B.3 on Data Collection Methods for the response on submission methods.

Commenter Name: Thomas W. Easterly
Commenter Affiliation: Indiana Department of Environmental Management (IDEM)
Document Control Number: EPA-HQ-OAR-2008-0508-0525.1
Comment Excerpt Number: 30

Comment: Indiana believes that existing federal data collection, management and dissemination mechanisms should be maximized to reduce the cost and burden to those facilities that would be covered by this rule.

Response: EPA agrees that reporting under this rule should minimize duplication of effort for sources in other EPA programs. See the preamble, Section V.B.3 on Data Collection Methods for the response on the use of existing reporting systems to handle the reporting requirements of this rule.

Commenter Name: Robert Rouse
Commenter Affiliation: The Dow Chemical Company
Document Control Number: EPA-HQ-OAR-2008-0508-0533.1
Comment Excerpt Number: 17

Comment: Section 98.5 simply states that the report will be submitted electronically in a format specified by the Administrator. The preamble further states that the electronic system and format are currently being developed. As EPA knows, there are several commercial vendors that supply software systems to industry to help with the extraction of data and assembly of reports. It is suggested that EPA consult with these vendors as they determine the system for submitting the reports. Dow encourages EPA to release draft reporting forms to the regulated community for review and comment as soon as practical, and also encourages EPA to hold workshops and web-seminars for the regulated community to better understand the reporting obligations.

Response: See preamble, Section V.B.3 on the Data Collection Methods for a response on system design and development. Also, EPA intends to conduct extensive outreach and training with the stakeholder communities affected by this rule. See also preamble, Section V.B.3 for the response to comments on submission methods.

Commenter Name: Steven D. Meyers
Commenter Affiliation: General Electric Company (GE)
Document Control Number: EPA-HQ-OAR-2008-0508-0532.1
Comment Excerpt Number: 12

Comment: EPA should use a web-based reporting tool to collect data for the Mandatory Program. This tool should be easy to access, simple in design and user friendly so that personnel at individual sites or companies can easily enter data in a complete and accurate manner. GE has found that GHG reporting errors increase as the reporting process gets more complex. GE has developed and uses a web-based tool that meets our reporting needs in a simple user-friendly way. GE is willing to demonstrate this tool to EPA. GE has the following recommendations for the Mandatory Program's electronic reporting tool: 1. Minimize the number of web pages requiring data entry. Site data entry personnel should be able to enter all required data on one page. This page should identify the emission source categories that are applicable to the site. Once the applicable emission source categories have been established, one page should be provided for each category. Pages for non-applicable emission source categories should be hidden from view. Finally one page should be provided for the data certification. GE's internal web-based tool is set up for one page to cover all data entry and verification once a site has been set up in our GHG inventory data collection tool; 2. Program all of the emission calculation equations into the electronic tool so that site data entry personnel do not have to do calculations separately. For example, if a site were going to employ the fuel combustion Tier 1 methodology, the site would be required only to enter the quantity of each fuel that is used during the year. For the Tier 2 methodology, the site would be required only to enter the fuel heat content and the quantity of fuel. For Tier 3, the site would be required only to enter the fuel carbon content (molecular weight for gaseous fuels) and the quantity of fuel. The tool should do the rest. Such an approach would significantly reduce potential calculation errors that undoubtedly would result if calculations must be done before data entry. 3. Data should be entered only once. The tool should be able to perform emission calculations for CO_2, CH_4 and N_2O based on a single data entry. 4. Provide drop down menus for data units including all of the units typically seen in the US for each data field. For example, utilities in the US report natural gas data in a variety of units including standard cubic feet (SCF), one hundred standard cubic feet (CCF), one thousand standard cubic feet (MCF), therms, decitherms, and MMBtu. 5. Provide easily accessible guidance for data entry fields. 6. Provide previously submitted data so that site data entry personnel can easily compare their current data entries to previous data entries. This will aid the data quality assurance by the site data entry personnel, company personnel and by EPA. GE has found this simple year over year comparison of data to be a very helpful data quality tool. 7. Provide a comment field for each data entry page so that site data entry personnel can add comments that will aid EPA's understanding of the data during data quality assurance activities. 8. Site data entry personnel should be able to review and access the data for only their site once data entry has been completed. A data summary page showing the entered data and the results of any calculations would be very helpful for this purpose. 9. Provided a reporting capability at the site level so that site data entry personnel can download reports of their site data reported in various ways and allowing trend analyses with previous data. The reports should be

downloadable in an Excel format. 10. Provided a reporting capability at the company level so that company personnel can download reports that include data for all of the reporting sites in their company. This data should be reportable in various ways and should allow trend analyses with previous data. The reports should be downloadable in an Excel format. 11. Provide a training program on the use of the electronic reporting tool. GE uses a combination of conference calls and Webex sessions to do this training. 12. Provide a toll free hotline staffed with knowledgeable personnel that are familiar with the Mandatory Program, particularly the applicability of each emission source category, and the use of the electronic reporting tool. EPA should expect the activity on this hotline to be very heavy during the first year because of the number of entities that will be reporting data for the first time.

Response: EPA appreciates the commenter suggesting ways to optimize the design of the data system. For the response on data system development and methods, see preamble, Section V.B.3 on data collection methods.

Commenter Name: Delaine W. Shane
Commenter Affiliation: Metropolitan Water District of Southern California (MWD)
Document Control Number: EPA-HQ-OAR-2008-0508-0551.1
Comment Excerpt Number: 7

Comment: The proposal states that the report data is sent to EPA, and that EPA may delegate authority to collect emissions data from stationary sources to state agencies under state authorized plan. If feasible, it is recommended that the electronic reports be submitted to EPA and to the state agencies simultaneously to avoid a multiple reporting requirement.

Response: For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods. For the response on data dissemination to States, see the preamble, Section V.B.5 on Data Dissemination.

Commenter Name: Arthur N. Marin
Commenter Affiliation: Northeast States for Coordinated Air Use Management (NESCAUM)
Document Control Number: EPA-HQ-OAR-2008-0508-0556.1
Comment Excerpt Number: 2

Comment: EPA should develop a GHG reporting program that has the following core attributes: * Adequate flexibility to meet current program needs and adapt to future data and policy needs: Any federal reporting program must be flexible enough to accommodate and adapt to future regulatory structures and changing data needs. The climate regulatory arena is nascent, and it is appropriate to assume that new regulatory approaches and opportunities will open up in the future. A federal reporting program should not limit regulatory action by creating a platform unable to accommodate additional data fields or new emissions sources. The program should be configured to support a broad range of analytical queries and provide information that supports a broad range of climate mitigation strategies. Failure to collect a full spectrum of data could significantly limit not only EPA's ability to support future regulatory programs, but may also limit policymakers' ability to identify and anticipate future emissions trends and mitigation opportunities. * Accessible and streamlined: A federal reporting program must be easy for

reporters to use, and should not require extensive or expensive data interface systems. It is important that the program allow reporters to focus their resources on building capacity to collect and report data of high quality, rather than on developing systems specially designed to access the federal reporting system. * Compatible with existing state and federal reporting systems: A federal reporting program platform should be compatible with existing state mandatory GHG reporting programs as well as The Climate Registry's voluntary reporting program, which was designed by the states. Existing federal and state programs, such as Clean Air Act's Title V reporting requirements, already collect source-level greenhouse gas data. EPA's final reporting program should be designed to limit the additional potential reporting burden by interfacing with such programs. EPA should review all Clean Air Act-related mandatory data reporting programs affecting potential sources and align and consolidate reporting dates and requirements to the extent possible. Such alignment and consolidation efforts must be done in consultation with states to ensure that any related state reporting requirements are not adversely affected or pre-empted in any way.

Response: EPA appreciates the commenter anticipating future needs. Although the new data system is intended to support this rule, EPA will design it to be extensible in the future. For the response on state delegation, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.3. on Data Collection Methods.

Commenter Name: David Thornton
Commenter Affiliation: National Association of Clean Air Agencies (NACAA)
Document Control Number: EPA-HQ-OAR-2008-0508-0563
Comment Excerpt Number: 2

Comment: We urge EPA to carefully consider how best to collect these data, and to give further thought to the needs of states and localities and the regulated community. In particular, NACAA believes that data reporting requirements should be consolidated within EPA to the greatest extent possible in order that those reporting are not required to send data on criteria, toxic and GHG pollutants to different parts of the agency on different time lines. The proposal states that "the goal is to have this GHG reporting program supplement and complement, rather than duplicate, U.S. government and other GHG programs." This proposal, however, might well be viewed by many as more duplicative than "complementary." The needs of state and local air agencies (and the regulated community) for streamlining and avoiding duplicative activities can be better met. For example, the proposed rule states that, "... for sources that do not [currently] report GHGs...EPA proposes to develop a new system for emission reporters to submit the required data." This proposal troubles us, as EPA has spent considerable time and effort over the last several years modernizing its system for collecting criteria pollutant data for the National Emissions Inventory (NEI). In fact, a NACAA/EPA Reengineering Committee consisting of 38 members of NACAA's Emissions & Modeling Committee and numerous EPA representatives has been convening regularly since mid-2006, brainstorming on how best to reengineer the NEI. The result of this collaborative effort is the Environmental Inventory System (EIS), which is now near completion. The EIS utilizes a common air emissions reporting schema that was designed to include not only criteria, but air toxics and GHG pollutant data as well.5 The benefits of the EIS include greater efficiencies for state, local and industry reporters submitting to multiple programs, clearer and consistent requirements across these programs, and the capability to utilize agency infrastructure, including the Exchange Network, to share data among network

participants.6 The EIS furthers the goals articulated by the National Academy of Sciences in 2004 in its report titled, "Air Quality Management in the United States" that "more protective and cost-effective multipollutant strategies" be developed by EPA.7 In particular, the EIS process will result in an NEI that provides a consolidated "snapshot" nationwide of all state, local, tribal and federal data – including sulfur dioxide data from the Acid Rain Program, nitrogen oxide data, and Toxic Release Inventory (TRI) emission data.8 In light of the EIS' impressive capabilities to inform air quality decisions – to the ultimate benefit of public health – NACAA is very disappointed that the proposed GHG reporting rule apparently will not take advantage of it. State and local air agency NEI experts have been closely involved in its design and development, and are confident that the reengineered EIS represents the gold standard in transparency, flexibility and reliability. NACAA is concerned, particularly in light of current budgetary constraints, that agencies will be asked to start from scratch with a duplicative, undeveloped new system that may not be able to accommodate the massive numbers of complex industrial, mobile, upstream and unconventional sources whose GHG data must now be reported. In summary, the association urges EPA to utilize the EIS for mandatory submission of GHG data.

Response: For a response on the reporting schedule, see comment response document Volume 12, Subpart A: Applicability and Reporting Schedule. For the response on NEI see the response to comment EPA-HQ-OAR-2008-0508-0404.1 excerpt 2. See preamble, Section V.B.3 for the response to comments on the data collection methods.

Commenter Name: Douglas P. Scott
Commenter Affiliation: The Climate Registry
Document Control Number: EPA-HQ-OAR-2008-0508-0567.2
Comment Excerpt Number: 2

Comment: To help EPA accomplish the objectives outlined above, The Registry seeks to partner with EPA to develop information technology solutions that will ensure consistency in GHG accounting and reporting across jurisdictions and ease the burden on companies facing different reporting requirements at the state, provincial, regional, and federal levels. The Registry was specifically created and designed to serve as a central repository of GHG data for companies operating in North America. By developing one comprehensive high-quality corporate-wide GHG inventory through The Registry, our goal is for corporations and organizations to be able to use that inventory to satisfy all of their mandatory GHG reporting requirements throughout North America, as well as support their own efforts to manage, reduce and publicly disclose their GHG emissions. The Registry developed a web-based database application to support voluntary GHG reporting. This application is know as the Climate Registry Information System (CRIS). The Registry is now working with states and provinces to develop additional functionality to leverage CRIS to support state mandatory GHG reporting programs. By supporting voluntary and mandatory GHG reporting programs together in this manner, The Registry creates a "one-stop shop" reporting approach. This helps avoid duplication of reporting effort and emphasizes reporter convenience while still supporting comprehensive GHG reporting. The Registry is interested in working closely with EPA to link its mandatory GHG reporting program to our centralized GHG data collection system. We would like to explore partnership opportunities to: collect and share GHG data in an efficient manner; align reporting requirements; and consider other joint efforts that will help meet the needs of reporters, EPA, the states and tribes, and The Registry. In the MRR, EPA acknowledges and commends states for their leadership in tackling climate change and indicates that it will "continue to work closely with states and state-based

groups to ensure that the data management approach in this proposal would lead to efficient submission of data to multiple programs." The Registry stands ready to assist EPA in this endeavor. Specifically, we encourage EPA to work with The Registry to enable interoperability between EPA's data collection system, state/tribal data collection systems and CRIS to reduce the burden for regulated parties interested in reporting GHG emissions to more than one program. The Registry is committed to harmonizing GHG reporting requirements to promote consistency so that data can be easily exchanged between programs using common data formats such as the CERS. Toward this end, The Registry has prepared five potential data collection scenarios to describe how we might work with EPA and states/tribes to accomplish this goal. The scenarios are based on criteria that are essential to a successful collaboration across GHG reporting programs. These criteria are designed to highlight the needs of all MRR stakeholders (EPA, the regulated parties, existing programs, states/tribes, and the public). GHG Data Collection System Criteria Program Needs: A GHG data collection system must collect and manage comprehensive high-quality GHG emission data that meets EPA's MRR program needs 1. Reporting Burden: The Registry urges EPA to minimize the reporting burden on regulated parties by streamlining reporting to multiple programs 2. Government Partnerships: The Registry encourages EPA to strengthen partnerships between federal, state, and tribal governments 3. Footprint Reporting: The Registry recommends that EPA encourage voluntary GHG emission footprint reporting (I.e., entity-wide reporting) 4. Level of Effort (Development): When possible, The Registry encourages EPA to leverage existing credible data collection systems, like The CRIS and the Common Framework, through public-private collaborations. The Registry encourages EPA to avoid "reinventing the wheel" and investing resources to re-develop tools that already exist. 5. Interoperability: The Registry urges EPA to collect GHG data in a manner that encourages widespread use of the data (i.e. that will be applicable and relevant to GHG reporting initiatives across North America and internationally). Designing a data collection system that meets these criteria is essential for EPA to position itself as a global leader in climate policy. Conversely, if EPA develops a data collection system that does not meet all of the above data collection criteria, it will forgo this unique leadership opportunity and likely worsen the balkanized nature of GHG reporting in North America. In addition to US stakeholders, other nations are closely watching how EPA chooses to implement its GHG reporting program. Therefore, The Registry believes it is important for EPA to seize this opportunity to develop a true partnership with states/tribes and work with regulated parties to efficiently and aggressively address GHG emissions in the US in a way that supports international efforts. The Registry has given considerable thought to how EPA might achieve these data collection goals. Given our experience collecting GHG data through The Registry's CRIS system, we developed the following five data collection scenarios. While we appreciate that it will not be easy to achieve the data collection goals, it is clear that some scenarios address more stakeholders' needs than others. These scenarios are not intended to be an exhaustive list of options, but rather they are meant to serve as a conceptual basis for additional discussion and exploration. Further, since EPA has stated its intent to share its GHG data with stakeholders, the following scenarios only depict data input scenarios, not the subsequent data exchange scenarios. The Registry looks forward to the opportunity to meet with EPA staff to further brainstorm data collection scenarios that will meet the needs of the MRR's many stakeholders. Scenario 1 describes the GHG data collection situation that will result from EPA's current proposal in the MRR. [See submittal for figure provided by commenter showing schematic of Scenario 1] In the MRR, EPA's primary concern is collecting data for its MRR program. It does not consider how its decision to collect data directly will impact other GHG initiatives. Specifically, EPA requires regulated parties to report their GHG emissions directly to EPA via a new data collection tool that EPA will build. While Scenario 1 does not preempt states, tribes, or others from having their own GHG reporting programs, it treats all such programs as independent programs. As such, each program will likely

develop its own data collection tool and require reporters to report through a unique interface. This will result in a burdensome reporting process for organizations who are required, or choose, to report to more than one GHG program. While this scenario meets EPA's internal needs for data collection, it misses the unique opportunity for EPA to work collaboratively with regulated parties and existing programs to cultivate a coordinated effort to address climate change in the U.S. Assessment of GHG Data Collection Criteria for Scenario 1: 1. Program Needs: Meets EPA's needs. 2. Reporting Burden: Extremely high. Reporters must report to multiple programs. 3. Government Partnership: Low. Scenario 1 does not preempt state/tribal programs, but does not support or partner with them either. 4. Footprint Reporting: Low. Scenario 1 does not directly discourage footprint reporting, however, given the increased reporting burden, reporters are less likely to participate in a footprint reporting program. 5. Level of Effort (Development): High. EPA has expressed a desire to develop its entire data collection system from scratch. 6. Interoperability: Low. Each program operates independently. In Scenario 2, EPA permits states and tribes to collect GHG data for EPA's program directly, if they choose. [See submittal for figure provided by commenter showing schematic of Scenario 2] In this scenario, states/tribes interested in collecting the EPA data directly would do so by creating a state/tribal module within The Registry's "Common Framework." These states/tribes (using the Common Framework) would then transfer the appropriate EPA data to EPA by a date specified via the Exchange Network, likely using the Consolidated Emissions Reporting Schema (CERS). Regulated facilities in states/tribes that choose NOT to collect the EPA data themselves would report to EPA directly (through EPA's new database tool). Common Framework: The Registry developed its CRIS application to enable organizations to calculate and/or report their GHG data to The Registry's voluntary GHG program. While CRIS was developed to support The Registry's Voluntary GHG Registry, states, provinces, territories, and Native Sovereign Nations expressed interest in using the core technical functionality of CRIS to collect GHG data for their own mandatory GHG programs. As a result, The Registry created a version of CRIS that contains additional functionality necessary to support most mandatory GHG programs. The Registry calls this new version the "Common Framework". The Common Framework serves as a GHG data collection template that jurisdictions may further customize to incorporate their own mandatory GHG reporting requirements. As such, it is a relatively simple, cost effective, turn-key solution for jurisdictions to use to implement their mandatory GHG reporting programs. Since the Common Framework is located on the same technical platform as CRIS, reporters may use one common interface to report their GHG emissions to The Registry's voluntary program as well as to multiple mandatory GHG programs. The beauty of this concept is that it meets both the reporters' and the regulatory agencies' needs -- reporters can submit all of their GHG data through one interface, while regulators can see and manage only the data that has been reported to their own Common Framework Module. Since the Common Framework is built on one database platform, the design, development, hosting, and maintenance costs will be shared between the participating jurisdictions. This helps to keep the costs of implementing a GHG data collection system low. The Common Framework also encourages footprint reporting of GHG emissions. Since the Common Framework and The Registry's Voluntary Program share the same technical platform and are accessed through the same interface, reporters who submit data to a mandatory program may use the same data to compile their organization's voluntary emissions footprint. Both CRIS and the Common Framework utilize The Registry's Exchange Network node to exchange GHG data with other Exchange Network nodes (in this case EPA's node). Scenario 2 greatly reduces the reporting burden by requiring data submissions to happen through one of two interfaces (EPA's or the Common Framework). This scenario provides states/tribes with the option to directly collect EPA data if they choose, thereby recognizing the states/tribes leadership, and interest in, climate policy. This option also utilizes existing systems (Common Framework), so states/tribes do not have to create their own distinct GHG collection systems

from scratch. However, this option does prevent states/tribes from using data collection systems outside of the Common Framework. This assumption benefits reporters, but may limit states/tribes. Overall, the scenario emphasizes the desire to have fewer distinct data collection systems and is a step toward a centralized GHG data collection system. Assessment of GHG Data Collection Criteria for Scenario 2: 1. Program Needs: Meets EPA's needs. 2. Reporting Burden: Medium. Reporters will still likely need to report to two different interfaces. 3. Government Partnership: High. Creates a partnership with states for data collection (permits states to directly collect EPA data). Also proactively works to lower regulated parties' reporting burdens. 4. Footprint Reporting: Medium. By offering the Common Framework as an option for state/tribe data collection, regulated parties are more likely to report their organization's emission footprint, as much of the necessary data can be easily identified for use in The Registry's Voluntary Reporting Program. 5. Level of Effort (Development): High. In Scenario 2, EPA will develop its own GHG data collection tool from scratch. 6. Interoperability: Medium. This scenario recognizes relationships and data exchange between programs, but still requires possible data entry in two systems. Scenario 3 is the same as Scenario 2, except that in Scenario 3 EPA would allow regulated parties to report GHG data to EPA in three (rather than two) ways. [See submittal for figure provided by commenter showing schematic of Scenario 3] In this scenario, EPA gives states/tribes the option to collect EPA's data directly, but does not specify that states/tribes must use the Common Framework. Therefore, EPA would receive data three ways: 1. From reporters directly; for those state/tribes who do not want to collect data themselves 2. From states/tribes directly; for those states/tribes who collect EPA data through their own GHG database systems 3. From the states/tribes via The Registry's Common Framework and the Exchange Network; for those states/tribes who choose to use the Common Framework as their GHG data collection system Like Scenario 2, Scenario 3 recognizes the states'/tribes' interest and leadership in climate change issues by permitting them to collect GHG data on behalf of EPA. States/tribes would then share the GHG data with EPA via the Exchange Network. Scenario 3, however, increases the reporting burden for regulated parties, as it increases the number of different data collection interfaces they may be required to use. However, the reporting burden is lower under this scenario than it is under Scenario 1, especially in the case where states/tribes are collecting data on behalf or EPA as well as collecting additional state required GHG emission data. Assessment of GHG Data Collection Criteria for Scenario 3: 1. Program Needs: Meets EPA's needs. 2. Reporting Burden: High. Reporters will need to report to multiple interfaces, depending upon how many states/tribes wish to create their own data collection systems. 3. Government Partnership: High. Creates a partnership with states for data collection (permits states to directly collect EPA data). 4. Footprint Reporting: Medium. By offering the Common Framework as an option for state/tribe data collection, regulated parties are more likely to choose to report their organization's emission footprint, as much of the necessary data will already be contained in CRIS (via the Common Framework). However, if states/tribes do not utilize the Common Framework, regulated parties will likely be less interested in footprint reporting as the reporting burden will increase as a result of many different reporting interfaces. 5. Level of Effort (Development): High. In Scenario 3, EPA will develop its own GHG data collection tool from scratch. 6. Interoperability: Medium. This scenario recognizes relationships and data exchange between programs, but requires possible data entry into multiple systems. In Scenario 4, EPA would work collaboratively with The Registry, states, tribes and others to design and develop a user friendly web-based reporting interface that would serve as a centralized GHG reporting portal. [See submittal for figure provided by commenter showing schematic of Scenario 4] The technical back end of the common interface would be a comprehensive data schema that would allow consistent data collection of required reporting fields for all GHG programs. This schema might be rooted in the CERS, or some enhanced version thereof. Once prompted by a reporter, a "submission router" would transmit the

appropriate data fields to a specified GHG program. The reporter could transmit GHG data to a variety of related programs (one or many). The data would be sent simultaneously to help ensure that all programs received the same data. Scenario 4 would require a great deal of collaboration and dedication by EPA, states, tribes, The Registry, and others, but would result in a significantly reduced reporting burden for regulated parties. This Scenario would likely benefit reporters who choose to report their pre-calculated data electronically, as opposed to those who would like to use an online calculation wizard tool to help them calculate their emissions automatically. Assessment of GHG Data Collection Criteria for Scenario 4: 1. Program Needs: Meets EPA's needs. 2. Reporting Burden: Low. Reporters could use one common interface to transmit their data simultaneously to multiple programs. 3. Government Partnership: High. Requires significant collaboration between all GHG programs to develop a comprehensive common interface. 4. Footprint Reporting: Medium. Footprint reporting would be included in the development of the common interface, but may not be explicitly encouraged by EPA. 5. Level of Effort (Development): Extremely High. In Scenario 4, EPA would develop its own GHG data collection tool from scratch. In addition, EPA and all other GHG programs must collaborate to create a common reporting interface. 6. Interoperability: High. All GHG data is submitted via one centralized location. Scenario 5 represents the concept of a North American GHG registry, supporting federal mandatory reporting, state/provincial mandatory reporting and voluntary reporting throughout North America. [See submittal for figure provided by commenter showing schematic of Scenario 5] In Scenario 5, EPA would contract with The Registry to develop an "EPA Module" within the Common Framework. In this case, the common reporting interface is The Registry's CRIS/Common Framework platform, rather than an external interface as suggested in Scenario 4. This Scenario allows reporters to enter GHG data in one location, but use it in multiple GHG programs, including EPA's MRR program. In addition, Scenario 5 would support a common set of online GHG calculation tools though a web interface, in addition to options that support the upload of pre-calculated GHG emissions. The significant difference in Scenario 5 is that EPA would NOT develop a separate GHG data collection system, but rather would leverage The Registry's investment in the Common Framework to create an "EPA Module." The EPA Module would include all of the reporting requirements necessary to meet EPA's MRR program requirements. Regulated parties would report their GHG data to the EPA Module via the Common Framework interface. EPA staff would have administrative access to the EPA Module data just as they would if they developed their own distinct data collection system. EPA staff could run reports, conduct analyses, determine compliance, etc. within the EPA Module. Additionally, if EPA did not preempt other states/tribes from requiring regulated parties from reporting additional jurisdiction-specific data, regulated parties could report all required (EPA and state/tribe) data in one location. It would then be easy for EPA to share its GHG data with states/tribes. EPA could either share certain data fields with states/tribes that have Common Framework modules, or EPA could transfer GHG data to states/tribes via the Exchange Network. This scenario significantly decreases the reporting burden for regulated parties. Additionally, it reduces the level of effort that EPA (and states/tribes) must expend to develop federal GHG data collection systems. If EPA utilized the Common Framework, states/tribes would not have to have to duplicate the development effort to create data collection tools to collect EPA data as they would in Scenario 2 and 3, rather, the EPA data would be made available to them via the Common Framework. Finally, Scenario 5 is likely also the most cost effective solution for EPA, as EPA would not need to develop a data collection system from scratch. Assessment of GHG Data Collection Criteria for Scenario 5: 1. Program Needs: Would be designed to meet EPA's needs. 2. Reporting Burden: Low. Reporters report to all GHG programs, including EPA's MRR and The Registry's Voluntary GHG Program through one common interface. 3. Government Partnership: High. Creates a partnership with states for data collection. In addition, this Scenario demonstrates a departure from a strict regulatory mindset

that only prioritizes one program's needs at a time. This Scenario shows that EPA is willing to think outside the box, reduce duplication of effort, and therefore minimize taxpayer expense while still meeting its regulatory needs. 4. Footprint Reporting: High. By collection EPA's GHG data through the Common Framework, regulated parties are more likely to report their organization's emission footprint, since much of the necessary data will already be contained in CRIS (via the Common Framework). 5. Level of Effort (Development): Medium. In Scenario 5, EPA would leverage The Registry's existing GHG data collection platform to meet its program needs. While the Common Framework will need to be customized to incorporate EPA's reporting requirements, it would save EPA from re-creating core data collection functionality. 6. Interoperability: High. This scenario assumes that the EPA MRR program and other distinct state/tribal GHG data collection systems are centralized within one database platform. The interoperability and sharing of data would be readily available, and all data could be communicated or exchanged with other programs outside of the platform using the CERS.

Response: See preamble , Section V.B.5 on Data Dissemination for the response on sharing emissions data with other agencies, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs. For the response on CERS see the response to comment EPA-HQ-OAR-2008-0508-0453.1 excerpt 24. EPA is committed to working with a broad array of stakeholders to promote the easy exchange and sharing of the GHG-MRR data. We carefully reviewed these detailed comments and held several follow-up discussions with TCR on these issues. These meetings occurred on March 25, April 16, June 24, July 31 and September 3 of 2009. Additional information on these meetings can be found in the docket.

Commenter Name: Keith Overcash
Commenter Affiliation: North Carolina Division of Air Quality (NCDAQ)
Document Control Number: EPA-HQ-OAR-2008-0508-0588
Comment Excerpt Number: 1

Comment: The NC DAQ agrees with this goal, and as such, recommends that the reporting system for this rule utilize the protocols and formats of the NEI program via the nearly completed Emission Inventory System (EIS). There is a clear need for consolidation of requirements such that criteria, toxic, and GHG pollutants can be reported using consistent systems and on consistent time lines. Many states, including North Carolina, have in operation a reporting system for NEI submittals under the AERR. This comprehensive reporting process is employed by facilities of all levels and is most familiar to the user community. NC's proposed GHG reporting rule seeks to reduce burden on reporters by employing the same system currently used for criteria and hazardous air pollutant emissions reporting. Such a system can ease the burden on the reporting community by eliminating duplicate data collection for multiple agencies, particularly since the types of sources for which facilities would be reporting GHGs are the same sources for which they currently report criteria and hazardous air pollutants. The proposed requirement of yet another reporting system is clearly going to introduce significant additional burden to the reporting community. As stated in the proposed rule, NEI includes data for over 60,000 facilities; since 13,200 facilities impacted by the proposed GHG rule are a subset of the NEI, it makes the most operational and economical sense to consolidate GHG reporting requirements with the currently proven reporting system. In addition, North Carolina is participating in the Air Quality Management Plan Pilot project with EPA's Office of Air Quality Planning and Standards (OAQPS). That project recognizes the need to look at air quality management across multiple pollutants, in a comprehensive and integrated manner. An integrated data collection system will result in an integrated inventory and provide valuable

information to develop and implement strategies that cut across multiple pollutants, with the ultimate goal of protecting public health and welfare. Facilities should not be burdened with multiple reporting schedules associated with multiple reporting systems. For example, the proposed rule requires annual reporting from most industrial sources on March 31, but requires 40 CFR Part 75 data from EGUs to be reported quarterly. Criteria pollutant data must be reported 12 months after the end of the calendar year, or December 31 under the AERR. Toxic Release Inventory data must be reported to EPA annually on July 1. The NC DAQ believes that these disparate reporting times can and should be harmonized, and that State and local air agencies should be consulted about the best, most efficient way to do so.

Response: For the response on NEI see the response to comment EPA-HQ-OAR-2008-0508-0404.1 Excerpt 2.

Commenter Name: Alison A. Keane
Commenter Affiliation: National Paint & Coatings Association, Inc. (NPCA/FSCT)
Document Control Number: EPA-HQ-OAR-2008-0508-0593.1
Comment Excerpt Number: 8

Comment: EPA states that "Each GHG emissions report for a facility or supplier must be submitted electronically on behalf of the owners and operators of that facility or supplier by their designated representative, in a format specified by the Administrator." Unfortunately, no where in the preamble or related documents in the Docket does EPA go into detail about the format for report submissions. In fact, EPA states the format will be specified by the Administrator after publication of the final rule.10 At this time, it is impossible for stakeholders to comment on such an important aspect of the proposal. Therefore, EPA must disclose the details of the reporting format for public comment before promulgating a final rule.

Response: See preamble, Section V.B.3 on Data Collection Methods for the response on submission methods.

Commenter Name: Andrew C. Lawrence
Commenter Affiliation: Department of Energy (DOE)
Document Control Number: EPA-HQ-OAR-2008-0508-0612.1
Comment Excerpt Number: 1

Comment: DOE recommends that EPA adopt a reporting system that interfaces with existing GHG reporting systems, such as the Climate Registry (TCR) Climate Registry Information System (CRIS). DOE has sites that currently utilize such programs to report GHG information; additionally, specific GHG reporting programs are required under existing state GHG reporting laws. Compatibility with existing data programs would allow facilities to submit information that already complies with state and federal data collection and verification requirements. DOE supports the use of existing reporting systems, a position stated by EPA in the preamble to the proposed rule: "EPA believes that using existing data collection methods and reporting systems, when feasible, to collect data required by this proposed rule would minimize additional burden on sources and the Agency."

Response: For response to comments on the interfaces with other programs and systems, see the preamble Section V.B.3. on Data Collection Methods, as well as the preamble, Section II.O on

the role of States and relationship of this rule to other programs. EPA agrees that an already established reporting format should be used to submit the required data. To that end, EPA will be modifying the Consolidated Emissions Reporting Schema to include the reporting requirements of this rule. See also the response on this issue in the preamble, Section V.B.5. on Data Dissemination. For the response on compatibility see the response to EPA-HQ-OAR-2008-0508-0453.1 Excerpt 24 on CERS.

Commenter Name: Mary D. Nichols
Commenter Affiliation: California Air Resources Board (CARB)
Document Control Number: EPA-HQ-OAR-2008-0508-0616.1
Comment Excerpt Number: 3

Comment: We would like to work with U.S. EPA staff to develop a data sharing mechanism to ensure both federal and state programs have the necessary data to support their respective programs as efficiently as possible. By working with states and The Climate Registry, U.S. EPA's reporting requirements can build on previous state and regional efforts to deliver a seamless national program.

Response: EPA looks forward to continuing our collaboration with California on the collection of GHG data. See preamble Section V.B.5 on Data Dissemination and Sharing Emissions Data with Other Agencies and Section II.O on the Role of States and the Relationship of this Rule to Other Programs.

Commenter Name: Filipa Rio
Commenter Affiliation: Alliance of Automobile Manufacturers (Alliance)
Document Control Number: EPA-HQ-OAR-2008-0508-0630.1
Comment Excerpt Number: 4

Comment: EPA should work with the states and regions to use a common data exchange standard to eliminate multiple reporting requirements while also providing states, regions, and the federal government direct access to needed data. A perfect example of states and the federal government working together to collect similar data needs occurs in the EPA's Toxic Release Inventory ("TRI") reporting program. This particular program makes use of a Central Data Exchange to collect data that is directly reported to both EPA and the state agencies. The data collection aspect of this program could be used as a model for collecting GHG emissions data to satisfy state and federal government needs.

Response: See preamble Section V.B.5 on Data Dissemination and Sharing Emissions Data with Other Agencies. For the response on a common data exchange see the response to EPA-HQ-OAR-2008-0508-0453.1 Excerpt 24.

Commenter Name: Karen St. John
Commenter Affiliation: BP America Inc. (BP)
Document Control Number: EPA-HQ-OAR-2008-0508-0631.1
Comment Excerpt Number: 27

Comment: Section 98.5: In section III.D (page 16463), EPA states that the "reports would be submitted electronically, in a format to be specified by the Administrator after publication of the final rule. To the extent practicable, [EPA] plan[s] to adapt existing facility reporting program to accept GHG emissions data. [EPA is] developing a new electronic data reporting system for source categories or suppliers for which it is not feasible to use existing reporting mechanisms." EPA further states in section VI.A (page 16593) the "new system would follow Agency standards for design, security, data element and reporting format conformance, and accessibility" and "EPA intends to develop a reporting scheme that minimizes the burden of stakeholders by integrating the new reporting requirements with existing data collection and data management systems, when feasible." EPA acknowledges there are many facets of the reporting scheme, none of which are described in detail in the proposal. Commenter's cannot evaluate the reporting scheme without the details and cannot comment on concerns, such as ability to use the electronic system, resources needed to implement the system, and cost associated with the reporting scheme. Thus, EPA must propose the reporting scheme for public comment prior to finalizing it.

Response: See preamble, Section V.B.3 on Data Collection Methods for the response on submission methods.

Commenter Name: See Table 10
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0635
Comment Excerpt Number: 7

Comment: The reporting rule provides an excellent opportunity for EPA to employ readily available information technology systems to increase overall transparency and participation in the regulatory process. Several easy procedures can be established to allow the full value of the information to be gleaned from all interested parties, and so to inform future development of the rule's requirements. However, unless EPA takes step to ensure the information reported under the rule is gathered in a structured, machine-readable way, EPA will shut the door on researchers and other parties fully developing the value of the collected information. Furthermore, responsible reporting structures will enable EPA to remain responsive to any information deficits that may emerge once the rule is implemented. We therefore advise EPA to employ the following initial data display methods – and, of course, to frequently investigate methods which would further improve access. To provide sufficient transparency and public access, we recommend that data be collected electronically and provided to the public in a machine readable and searchable format, using XML to structure the data and RSS feeds to communicate reporting progress to interested parties. [footnote: These two information technology strategies are common recommendations among academics that have thought about the issue of data gathering and government transparency. See David Robinson, et al., Government Data and the Invisible Hand, 11 Yale J. L. & Tech. 160 (2009), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1138083 (Ex. 4); Jerry Brito .Crowdsourcing Government Transparency, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1023485 (Ex. 5).]. These data formats should also link into existing reporting programs already developed by major facilities to reduce administrative costs and regulatory over-burden. XML, structuring would facilitate manipulation and search functionality by interested parties. Similarly, RSS feeds would allow the public to access real-time updates on information as it is published to EPA's website and could also be accompanied by information regarding verification of the data. The rule should allow for flexibility so that future electronic database technologies can be incorporated as they become

available, and the data gathered can be easily integrated with other information sources. In addition to allowing interested parties to download the raw reporting information submitted to the Agency, EPA should ensure the information collected under the reporting rule is provided to visitors of the EPA website in a comprehensible way. Specifically, EPA should provide users the ability to browse historic emissions data for specific emitting entities, for different regions, and for the various covered industrial sectors.

Response: For the response on XML see the response to EPA-HQ-OAR-2008-0508-0453.1 Excerpt 24 and the preamble Section V.B.3 for the response to comments on submission methods. EPA agrees that timely access to data by the general public is an important part of this rulemaking. See preamble Section V.B.5 on Data Dissemination and Sharing Emissions Data with Other Agencies.

Commenter Name: Marcelle Shoop
Commenter Affiliation: Rio Tinto Services, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0636.1
Comment Excerpt Number: 2

Comment: EPA should continue to develop a common IT framework, such as EPA's Consolidated Emissions Reporting Scheme (CERS), to allow simple and consistent reporting across the GHG registries and reporting programs.

Response: For the response to CERS see the response to EPA-HQ-OAR-2008-0508-0453.1 Excerpt 24.

Commenter Name: Carrie Noteboom
Commenter Affiliation: New York City Law Department
Document Control Number: EPA-HQ-OAR-2008-0508-0641.1
Comment Excerpt Number: 1

Comment: The compilation and analysis of comprehensive, accurate greenhouse gas emissions data has been a critical component of New York City's efforts to develop and implement greenhouse gas mitigation measures. The data collected under the proposed rule can provide valuable information to assist in similar efforts nationwide. To ensure the maximum utility of these data, a national greenhouse gas inventory created by the proposed rule should be designed so that data are organized and reported on a county level to allow for better comparability of similar geographic units.

Response: See preamble Section V.B.5 on Data Dissemination and Sharing Emissions Data with Other Agencies and use of EPA's Facility Registry System to provide locational attributes.

Commenter Name: Myra C. Reece
Commenter Affiliation: South Carolina Department of Health and Environmental Control (SC DHEC)
Document Control Number: EPA-HQ-OAR-2008-0508-0654.1
Comment Excerpt Number: 3

Comment: SC DHEC would like to bring attention to the comment in the proposed rule that addresses the new system EPA plans on developing for emission reporters that do not currently report GHGs. SC DHEC participated in the group of states and local representatives working with EPA in the re-engineering of the National Emissions Inventory (NEI). This Committee coordinated with EPA for nearly three years on how to best reengineer the NEI to account for GHG data. The result of this coordination has been the Environmental Inventory System (EIS), which is now near completion. SC DHEC strongly urges the EPA to utilize the EIS and not develop a new reporting schema for the mandatory reporting of GHG data. These resources could be better used elsewhere.

Response: For the response on NEI see the response to comment EPA-HQ-OAR-2008-0508-0404.1 Excerpt 2.

Commenter Name: Meg Voorhes
Commenter Affiliation: Social Investment Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0657.1
Comment Excerpt Number: 18

Comment: We fully endorse the flexibility expressed within the Proposed Rule for enhancements to the process for submission and dissemination of data based on new technologies as they become available. XML is cited as a specific example and may be useful in data submission in the future.

Response: For the response on XML see the response to comment EPA-HQ-OAR-2008-0508-0453.1 Excerpt 24 on adopting the CERS schema.

Commenter Name: Meg Voorhes
Commenter Affiliation: Social Investment Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0657.1
Comment Excerpt Number: 12

Comment: Electronic submissions of data, combined with an assigned facility ID and a PIN or electronic signature, creates a useful environment for greatly improving data quality and the ability to easily aggregate facilities within a corporate family.

Response: See preamble, Section V.B.3 for the response to comments on submission methods and Unique Identifiers for Facilities and Units.

Commenter Name: John Quinn
Commenter Affiliation: Constellation Energy
Document Control Number: EPA-HQ-OAR-2008-0508-0668.1
Comment Excerpt Number: 2

Comment: Constellation Energy strongly suggests that the EPA continue to collaborate with states and regional agencies to establish a single reporting program that serves the needs of all of

the agencies. A single reporting system will reduce confusion and allow reporting entities to efficiently track and report emissions.

Response: See preamble Section V.B.5 on Data Dissemination and Sharing Emissions Data with Other Agencies.

Commenter Name: See Table 7
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0679.1
Comment Excerpt Number: 55

Comment: §98.5 In section III.D (page 16463), EPA states that the "reports would be submitted electronically, in a format to be specified by the Administrator after publication of the final rule. To the extent practicable, [EPA] plan[s] to adapt existing facility reporting program to accept GHG emissions data. [EPA is] developing a new electronic data reporting system for source categories or suppliers for which it is not feasible to use existing reporting mechanisms." EPA further states in section VI.A (page 16593) the "new system would follow Agency standards for design, security, data element and reporting format conformance, and accessibility" and "EPA intends to develop a reporting scheme that minimizes the burden of stakeholders by integrating the new reporting requirements with existing data collection and data management systems, when feasible." EPA acknowledges there are many facets of the reporting scheme, none of which are described in detail in the proposal. Commenter's cannot evaluate the reporting scheme without the details and cannot comment on concerns, such as ability to use the electronic system, resources needed to implement the system, and cost associated with the reporting scheme. Thus, EPA must propose the reporting scheme for public comment prior to finalizing it.

Response: See preamble, Section V.B.3 on Data Collection Methods for the response on submission methods.

Commenter Name: Ronald H. Strube
Commenter Affiliation: Veolia ES Solid Waste
Document Control Number: EPA-HQ-OAR-2008-0508-0690.1
Comment Excerpt Number: 5

Comment: We urge EPA to ensure that the reporting forms are self-explanatory, easy to fill out, and strictly limited to required information. Any non-required information should be clearly and separately identified. We are encouraged by EPA's discussion of its planned outreach and technical assistance program to aid reporting industries in submitting accurate data. As EPA has acknowledged in the proposal, the Agency will need to work with reporting facilities to ensure that they understand what data must be reported and how to fill out the reporting forms. We hope that EPA does not underestimate the pitfalls in preparing effective data forms and explaining how to fill them out.

Response: See preamble, SectionV.B.3 on Data Collection Methods for the response on submission methods.

Commenter Name: [name not given]

Commenter Affiliation: Graphic Arts Coalition (GAC)
Document Control Number: EPA-HQ-OAR-2008-0508-0701.1
Comment Excerpt Number: 8

Comment: EPA states that "Each GHG emissions report for a facility or supplier must be submitted electronically on behalf of the owners and operators of that facility or supplier by their designated representative, in a format specified by the Administrator." Unfortunately no where in the preamble or related documents in the Docket does EPA go into detail about the format for report submissions. In fact, EPA states the format will be specified by the Administrator after publication of the final rule. At this time, it is impossible for stakeholders to comment on such an important aspect of the proposal. Therefore, EPA needs to disclose the details for public comment before finalizing the rule.

Response: See preamble, Section V.B.3 on Data Collection Methods for the response on submission methods.

Commenter Name: Gregory A. Wilkins
Commenter Affiliation: Marathon Oil Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0712.1
Comment Excerpt Number: 97

Comment: Marathon requests that any new reporting system (such as the suggested electronic system) will be subject to a comment and review period for all affected users. Marathon would like an opportunity to comment on this system to ensure that it will correctly align with our current methods of collecting data. Since this rule has not been finalized, it is not possible for Marathon to know with what format the collection of data will be. Because of this. it will be very difficult to format the data collection and calculations in a way that can be easily transferred into the required reporting format. Additionally, because the electronic format is not specified here and will not be specified until after data collection has begun, Marathon has no way to align the two systems from the beginning which would reduce burden. This comment represents another reason that EPA should delay this reporting rule until January 1, 2011. By knowing the format of the submission prior to detailed data submission, the creation of our data collection process can be formatted to match. This would reduce the burden of having to change our system to align with the new reporting format once EPA has created it.

Response: See preamble, Section V.B.3 on Data Collection Methods for the response on submission methods.

Commenter Name: Gregory A. Wilkins
Commenter Affiliation: Marathon Oil Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0712.1
Comment Excerpt Number: 98

Comment: One option for the electronic reporting system would be the use of data management through EPA created Excel spreadsheets. If a spreadsheet system were used. EPA could determine and define what information they need within the spreadsheet, and when the spreadsheets were completed and submitted certain cells or groups of cells could be exported

into a database to be further manipulated by EPA. This would ensure consistency of what is reported and would allow for easy comparison and manipulation of data.

Response: See preamble, Section V.B.3 on Data Collection Methods for the response on submission methods.

Commenter Name: Alice Edwards
Commenter Affiliation: Alaska Department of Environmental Conservation (ADEC)
Document Control Number: EPA-HQ-OAR-2008-0508-0720.1
Comment Excerpt Number: 2

Comment: ADEC requests that EPA look more closely at the electronic reporting system for GHG emissions. On federal register page 16594, the proposed rule states that, "...for sources that do not report GHGs...EPA proposes to develop a new system for emission reporters to submit the required data." ADEC questions why EPA is considering developing a new system for GHG emission reporters when EPA has spent considerable time and effort over the last several years modernizing its system for collecting criteria pollutant data for the National Emissions Inventory (NEI). The reengineering of the NEI system has resulted in the near completion of the Emission Inventory System (EIS), which will use a common air emissions reporting schema that was designed to include not only criteria, but air toxics and GHG pollutant data as well. Using the EIS for collection of GHG data along with other emission data streams provides a number of benefits including greater efficiency for state, local, and industry reporters that submit to multiple programs within EPA. The use of the EIS can provide consistency across all these programs and the capability to use developed infrastructure, like the Exchange Network, to easily share data. By storing data within the EIS all state, local, tribal, federal emission data can be consolidated and used efficiently. This can include criteria and toxic pollutant emissions, Acid Rain Program data, and Toxic Release Inventory data. By having multi-pollutant data stored in a common manner, the EIS will be able to inform many air quality decisions. Given the wide variety of sources that will be required to report data, EPA should take advantage of the EIS for GHG data rather than developing a duplicative, new system.

Response: See preamble, Section V.B.3 on Data Collection Methods for the response on submission methods. For the response on NEI see the response to comment EPA-HQ-OAR-2008-0508-0404.1 Excerpt 2.

Commenter Name: Jennifer McGraw
Commenter Affiliation: Center for Neighborhood Technology (CNT)
Document Control Number: EPA-HQ-OAR-2008-0508-0723.1
Comment Excerpt Number: 6

Comment: CNT is pleased to see that EPA is working to develop an electronic data submission method. As EPA finalizes the details of the reporting format and submission method CNT encourages EPA to use a data and reporting standard, but allow reporters to choose the emissions calculation and recording software it would like to use to track emissions and activity data and prepare data for submission. Enabling flexibility in calculation and tracking tools will allow reporters to use tools suited for their data needs and take advantage of the continuous improvement of such tools in this arena. CNT has been working with the Clinton Climate

Initiative, Microsoft, Autodesk, Ascentium and ICLEI-Local Governments for Sustainability to develop Project 2 Degrees, a set of online tools to enable to enable cities around the world to measure, compare and reduce their greenhouse gas emissions. The project's Web-based Emissions Tracker software enables cities to calculate the carbon footprint of both municipal operations and the communities they serve in a uniform way. The calculation methods in Emissions Tracker are compatible with those in this Proposed Reporting Rule, and so enabling submission of XML data from a tool like 2 Degrees to EPA would allow users to store and analyze their data in one place for multiple uses.

Response: EPA appreciates the commenter's suggestion to provide flexibility to reporters. See preamble, Section V.B.3 on Data Collection Methods for the response on submission methods.

Commenter Name: Myron Hafele
Commenter Affiliation: Kohler Co.
Document Control Number: EPA-HQ-OAR-2008-0508-0761.1
Comment Excerpt Number: 5

Comment: Kohler Co. supports EPA's proposal that facility level reports be submitted electronically to EPA on EPA provided software. Our concern however would be in the event that issuance of the software does not occur early enough for facilities to install, learn, use, and work through any software bugs before the reporting deadline.

Response: See preamble, Section V.B.3 for the response to comments on the data collection methods and 'beta testing'.

Commenter Name: Jack Blackmer
Commenter Affiliation: Novozymes North America Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0949
Comment Excerpt Number: 2

Comment: Novozymes would like to ask that the EPA please consider incorporating GHG reporting into the annual EPCRA TRI reporting to avoid another separate annual reporting process. For facilities that are not subject to TRI, but who are subject to the GHG rule, an option could be made available to them for separate reporting.

Response: See preamble, Section V.B.3 for the response to comments on the data collection methods.

Commenter Name: Kathy G. Beckett
Commenter Affiliation: West Virginia Chamber of Commerce
Document Control Number: EPA-HQ-OAR-2008-0508-0956.1
Comment Excerpt Number: 14

Comment: EPA proposes under 98.3(e) to require that each submission under the program be signed and certified in accordance with 40 C.F.R. 3.10 of the Cross Media Reporting Rule (CROMERR). CROMERR allows sources to use electronic documents to satisfy a federal reporting only if (1) The person transmits the electronic document to EPA's Central Data

Exchange, or to another EPA electronic document receiving system that the Administrator may designate for the receipt of specified submissions, complying with the system's requirements for submission; and (2) The electronic document bears all valid electronic signatures that are required under paragraph (b) of this section. 40 C.F.R. 3.10. CROMERR also provides for federal civil and criminal penalties for "failure to comply with a federal reporting requirement" if a person submits an electronic document to EPA without complying with 3.10. Id. at 3.4. CROMERR was not intended to mandate electronic reporting or to create liability for failure to meet electronic reporting requirements over which sources have limited, or no control. EPA's proposal, under § 98.5, to mandate electronic submission of reports "in the format specified by the Administrator" has the potential to remove from sources' control many or all aspects of their compliance with CROMERR. The use of CROMERR has been a less than reliable mechanism and we urge EPA to address the uncertainties related to its use if it intends to require its application to this proposal.

Response: See the response to EPA-HQ-OAR-2008-0508-0487.1 Excerpt 11. Furthermore, see preamble, Section V.B.3 for the response to comments on submission methods.

Commenter Name: See Table 9
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-1021.1
Comment Excerpt Number: 9

Comment: For EGUs already subject to the ARP's reporting requirements, portions of the GHG emissions report would be duplicative. Because of the administrative costs associated with multiple filings, recognized by EPA in this rulemaking, EEI would support not only EPA's efforts to integrate the new reporting requirements with existing data collection and management systems, but also a move toward a unitary reporting scheme for all emissions reporting programs under EPA's purview.

Response: EPA agrees that reporting under this rule should minimize duplication of effort for sources in other EPA programs. The Agency will examine the feasibility of using existing reporting systems to handle the reporting requirements of this rule. Furthermore, see preamble, Section V.B.3 for the response to comments on submission methods.

Commenter Name: G. Vinson Hellwig
Commenter Affiliation: Michigan Department of Environmental Quality (MDEQ)
Document Control Number: EPA-HQ-OAR-2008-0508-1035.1
Comment Excerpt Number: 1

Comment: On December 17, 2008, the U.S. Environmental Protection Agency (EPA) published the Air Emissions Reporting Requirements (AERR) as a Final Rule in the Federal Register. One of the stated purposes of the AERR is "intended to harmonize, reduce, and simplify the emissions reporting requirements, and also make emissions reporting easier." The proposed GHG reporting rule places additional reporting requirements on the regulated community, making emission reporting more difficult, in apparent conflict with the stated purpose of the AERR. Additionally, the AERR timeline to report emissions data is 12 months following the end of the calendar year, beginning with the reporting of the 2009 data. The Toxics Release Inventory regulations require data be reported each year by July 1. The proposed GHG reporting

rule would require GHG data be reported by March 31 for the previous calendar year. Though the March 31 deadline happens to be compatible with the State of Michigan's annual emissions reporting deadline of March 15, this new proposed deadline is in clear disharmony with the AERR and other reporting deadlines. Each of these reporting requirements also utilizes different reporting systems. The proposed GHG reporting rule suggests adding even another reporting system with its own reporting protocol and deadline, making the stated goal to "harmonize, reduce, and simplify emission reporting requirements" that much more distant. Further, EPA has recently spent much time and effort reengineering the National Emissions Inventory system. The new Emissions Inventory System (EIS) is expected to launch this summer. The EIS will use the Consolidated Emission Reporting Schema (CERS) for reporting of data from the state, local, and tribal agencies. In addition to accommodating the collection of criteria pollutant data, the CERS also accommodates the collection of GHG data as well. The EPA should consider the efficiencies that could be realized by requiring the downstream (facility-specific) emissions data be collected as part of the AERR cycle. This would allow for an additional layer of quality assurance of the data at the state level and could harmonize reporting schedules.

Response: For a response on the reporting schedule, see comment response document Volume 12, Subpart A: Applicability and Reporting Schedule. For the response on NEI see the response to comment EPA-HQ-OAR-2008-0508-0404.1 Excerpt 2.

Commenter Name: James Sims
Commenter Affiliation: Western Business Roundtable
Document Control Number: EPA-HQ-OAR-2008-0508-1038.1
Comment Excerpt Number: 3

Comment: We appreciate EPA's stated intention to "develop a reporting scheme that minimizes the burden of stakeholders by integrating the new reporting requirements with existing data collection and data management systems, when feasible" (Section VI.A of proposed rule's preamble). The CAA already requires reporting under a variety of its programs. We strongly urge EPA to integrate both data management/reporting systems and underlying methodologies wherever feasible. Doing so will help lower the compliance costs for reporters significantly. In addition, we believe this approach important as a means of eliminating the confusion that might occur should government agencies' have conflicting sets of data in the public domain.

Response: EPA agrees that an already established reporting format should be used to submit the required data. For the response on CERS see the response to EPA-HQ-OAR-2008-0508-0453.1 Excerpt 24. See preamble, Section V.B.3 on Data Collection Methods for the response on submission methods.

Commenter Name: Kelly R. Carmichael
Commenter Affiliation: NiSource
Document Control Number: EPA-HQ-OAR-2008-0508-1080.2
Comment Excerpt Number: 8

Comment: EPA proposes to develop an electronic tool for reporting GHG emissions. While NiSource supports developing a tool that will make GHG reporting more streamlined and efficient, we urge EPA to provide an opportunity for stakeholders to comment and provide input to the process. The development of reporting tools in other GHG reporting programs, such as the

California Registry (TCR) and the Regional Greenhouse Gas Initiative, benefited greatly from the input of stakeholders. NiSource companies operate in multiple jurisdictions and since the reporting rule does not pre-empt existing state reporting programs already underway, we strongly urge the EPA to consider a common reporting framework developed with stakeholder participation and input. Further, in order to provide for an orderly transition to the electronic reporting system, NiSource expects that the electronic reporting tool would be available no later than January 1, 2010. NiSource believes that end-users would need at least six to twelve months or more to design, install and implement the new EPA system. Recent enhancements in the electronic reporting for the 40 CFR 75 monitoring involved a lengthy process and that electronic system entailed only an enhancement of the existing system.

Response: See the preamble, Section V.B.3 on Data Collection Methods for the response on submission methods. The electronic data system will be made available to reporters well in advance of the due date for submissions. EPA does not anticipate the lengthy installation time cited in this comment. EPA intends to make the draft XML reporting schema available at least six months prior to the report submission deadline.

Commenter Name: Bill Thompson
Commenter Affiliation: National Tribal Air Association (NTAA)
Document Control Number: EPA-HQ-OAR-2008-0508-1144.1
Comment Excerpt Number: 2

Comment: The Registry was specifically created and designed to serve as a central repository of GHG data for companies operating in North America. By developing one comprehensive high-quality corporate-wide GHG inventory through the Registry, the goal is for corporations and organizations to be able to use that inventory to satisfy all of their mandatory GHG reporting requirements throughout North America, as well as support their own efforts to manage, reduce and publicly disclose their GHG emissions. The Registry developed a web-based database application to support voluntary GHG reporting. This application is known as the Climate Registry Information System (CRIS). The Registry is now working with states, tribes and provinces to develop additional functionality by supporting voluntary and mandatory reporting programs thereby creating a “one-stop shop” reporting approach. This helps avoid duplication of reporting efforts and emphasizes reporter convenience while still supporting comprehensive GHG reporting.

Response: See the preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.5. on Data Dissemination. EPA intends to involve stakeholders as we develop the database. See the response in the preamble, Section V.B.3 on Data Collection Methods.

Commenter Name: J. Jared Snyder
Commenter Affiliation: New York State Department of Environmental Conservation
Document Control Number: EPA-HQ-OAR-2008-0508-1184
Comment Excerpt Number: 3

Comment: The Department also recommends that EPA work with states to develop a data platform that continues to recognize voluntary GHG reporting. TCR has been working with states and provinces to support their reporting requirements and has already developed a shared

reporting platform to facilitate data exchange between programs and reduce reporting burden. To promote one comprehensive, high quality data set, the Department recommends that EPA maintain a central repository for GHG emissions that is consistent with other reporting requirements like the Consolidated Emissions Reporting Rule (CERR) and Air Emissions Reporting Requirements (AERR). The Department strongly supports EPA in its efforts to integrate GHG reporting requirements with existing data collection formats and data management systems and to link data reported under the GHG rule with data for the same facilities in the National Emissions Inventory (NEI). The NEI, once completed, will reside in EPA's Emissions Inventory System (EIS). The EIS is designed to utilize common air emissions reporting to include criteria pollutants, air toxics and GHG pollutant data. The EIS will result in an NEI that provides consolidated emissions of all state, local, tribal and federal data, including sulfur dioxide data from the Acid Rain Program, nitrogen oxide data, and Toxic Release Inventory emission data.

Response: Regarding the comment on the development of a shared reporting program, see the preamble, Section II.O on the role of States and relationship of this rule to other programs, Section V.B.5. on Data Dissemination, and Section V.B.3 on Data Collection Methods. EPA intends to involve stakeholders as we develop the database. For the response on CERS see the response to EPA-HQ-OAR-2008-0508-0453.1 Excerpt 24. With regard to linking data from the same facilities in the NEI, see the response to comment EPA-HQ-OAR-2008-0508-0404.1 excerpt 2.

Commenter Name: Pamela F. Faggert
Commenter Affiliation: Dominion
Document Control Number: EPA-HQ-OAR-2008-0508-1741
Comment Excerpt Number: 25

Comment: EPA proposes to require that each emissions report be "submitted electronically ...in a format specified by the Administrator." EPA asserts that reporting in electronic format will reduce burdens on facilities and EPA and that by "not specifying the exact reporting format in the regulatory text, EPA maintains the flexibility to modify the reporting format and tools in a timely manner"15. If EPA makes the format (itself) a regulatory requirement, EPA should subject that format to notice and comment rulemaking. Each time EPA makes a revision to the format, software, or instructions, sources are required to respond. In some cases, this response requires modifications to the sources' own monitoring software at significant cost. As implemented, EPA's electronic formats are substantive requirements that can impose significant burdens and impact a source's compliance status. We support electronic submittals, but recommend that the specific format not be regulatory.

Response: See preamble, SectionV.B.3 on Data Collection Methods for the response on submission methods. For the response on format see the response to EPA-HQ-OAR-2008-0508-0487.1 Excerpt 10.

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2. DATA QA AND FEEDBACK BY EPA TO REPORTERS

Commenter Name: Meg Voorhes

Commenter Affiliation: Social Investment Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0657.1
Comment Excerpt Number: 13

Comment: EPA should commit to a quality assurance process that specifically confirms that facility identifiers match the PIN or electronic signatures used at the time of submission and refers mismatches back to the facility for resubmission.

Response: EPA agrees with the commenter and intends to include appropriate quality assurance procedures in the facility registration and emissions submission system(s). See preamble, Section V.B.3 for the response to comments on submission methods and Unique Identifiers for Facilities and Units.

Commenter Name: J. Southerland
Commenter Affiliation: None
Document Control Number: EPA-HQ-OAR-2008-0508-0165
Comment Excerpt Number: 11

Comment: In addition, each state has inspections and frequent visits to most of the facilities in question and could serve a major role in validation and/or certification of facility estimates..

Response: Please see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as Section II.N. on Emissions Verification Approach for discussion of possible roles for state and local agencies in verification of data reported under this rule.

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3. DATA DISSEMINATION

A. Data Dissemination to Public

Commenter Name: Craig Segall
Commenter Affiliation: Sierra Club
Document Control Number: EPA-HQ-OAR-2008-0508-0228n
Comment Excerpt Number: 2

Comment: We recognize, as EPA puts it in the preamble, there are reasons for precise reporting measures and precise disclosure measures somewhat open. As knowledge improves you will want to keep improving. We think these basic principles ought to be in the rule centrally, and think it should be clear as EPA published in the Federal Register and cites in the preamble, that this is public information and a vast majority, if not all of it, should go to the public and go to public quickly. One way to do that is citing to Section 14(c) in the rule more clearly and also committing to putting all of this on line electronically. It is also worth considering what to do with verification data submitted in addition and data collected in the EPA audits. It's probably worth considering making that also clearly publicly available. Again, it is not confidential; and to the extent there will be strong public interest in the verification audit processes, it is worth having that out there for third parties to have a good look at.

Response: Please see the preamble, Section V.B.5. on Data Dissemination for the response on public access to emissions data, as well as Section II.R for responses on confidential business information (CBI).

Commenter Name: See Table 10
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0635
Comment Excerpt Number: 4

Comment: Clean Air Act provisions authorizing this rule also clearly mandate public access to all relevant data and information collected pursuant to them. Sections 114 and 208 both provide that "[a]ny records, reports or information obtained under" them "shall be available to the public." This access principle is broad. It includes, for instance, all information gathered under "subsection (a)" of section 114, which includes not only emissions reports, but "records on control equipment parameters," "such other information as the Administrator may reasonably require," and information gathered by the Administrator "or his authorized representative" upon the premises or within the records of reporting parties. Indeed, only parties who can provide "a showing satisfactory to the Administrator" that data should be treated as confidential business information may shield information from this broad access right. [footnote: See 42 U.S.C. §§ 7414, 7542. See id. § 741 4(c); See id. § 741 4(a); see also id. § 7542 (granting similar rights), See id. §§ 7414(c) & 7542(c)].. The preamble goes further, with affirmative plans for public access to data collected under the rule, stating that EPA plans "to publish data submitted or collected under this rulemaking through EPA's Web site, published reports, and other formats," "recogniz[ing] the high level of public interest in this data and propos[ing] to disclose it in a timely manner." We strongly support these well-founded determinations. These concepts should not, however, be confined to the preamble. This omission is unwise, and is not justified by EPA's legitimate desire not to "specify [ ] the exact reporting format in the regulatory text," in order to allow the Agency the flexibility to modify reporting tools as the rule matures. While EPA certainly should give itself leeway to improve access and the reporting system over time, it must also make clear that the sound principles it sets out in the preamble will apply as the rule evolves. To ensure that the rule's public access provisions reflect the experience that EPA gains through the rule's implementation, we urge EPA to include a provision requiring mandatory review of the public access provisions no later than 2 years after the rule's implementation .

Response: For the response on CBI see the response to EPA-HQ-OAR-2008-0508-0228n Excerpt 2. EPA does not believe a mandatory review of public access provisions are required under this rulemaking, because the Clean Air Act is clear that emissions data be made available upon request, and we are committed to disseminating it, as described in the referenced comment.

Commenter Name: Kusai Merchant
Commenter Affiliation: Environmental Defense Fund
Document Control Number: EPA-HQ-OAR-2008-0508-0212.1h
Comment Excerpt Number: 10

Comment: Transparency requires meaningful public access to information. For far too long, pollution reporting has been encumbered by slow quality assurance procedures and byzantine information databases that undermine accessibility. Disclosure is thwarted when information is stale or accessibility only to a few -- is accessible only to a few people or presented in opaque

formats. We respectfully urge EPA to leverage 21st century information technologies to make pollution data available in real time and to all Americans.

Response: For the response on CBI see the response to EPA-HQ-OAR-2008-0508-0228n Excerpt 2. The emissions data collected under this rule will be made available to the public annually, shortly after the annual submissions are due.

Commenter Name: Jesse Prentice-Dunn
Commenter Affiliation: None
Document Control Number: EPA-HQ-OAR-2008-0508-0212.1o
Comment Excerpt Number: 6

Comment: The EPA proposes to make data collected under the Greenhouse Gas Registry Rule freely available to the public. The public has a vital interest in climate information, almost none of which is confidential. This approach is consistent with the Obama administration's emphasis on transparency and public access to government information.

Response: See the response to EPA-HQ-OAR-2008-0508-0212.1m Excerpt 7.

Commenter Name: Christina Yagjian
Commenter Affiliation: None
Document Control Number: EPA-HQ-OAR-2008-0508-0212.1m
Comment Excerpt Number: 7

Comment: The proposal to make and collect data under the rule freely available to the public, this helps to honor President Obama's emphasis on public access to government information and also the public's right to be informed on climate information.

Response: EPA appreciates the commenter's support for public release of the data collection. Note that some data may be considered confidential business information (CBI) by the reporters, and may not be disclosed to the public. For the response on CBI see the response to EPA-HQ-OAR-2008-0508-0228n Excerpt 2.

Commenter Name: Lauren Trevisan
Commenter Affiliation: Sierra Club
Document Control Number: EPA-HQ-OAR-2008-0508-0212u
Comment Excerpt Number: 6

Comment: We believe that transparency in this process is essential. Consistent with Administrator Jackson's commitment to overwhelming transparency and President Obama's emphasis on public access to government information, EPA proposes to make the data collected under this rule freely available to the public.

Response: EPA appreciates the commenter's support for public release of the data collection. Note that some data may be considered confidential business information (CBI) by the reporters, and may not be disclosed to the public. For the response on transparency see the response to EPA-HQ-OAR-2008-0508-0228n Excerpt 2 regarding CBI.

Commenter Name: Craig Segall
Commenter Affiliation: Sierra Club
Document Control Number: EPA-HQ-OAR-2008-0508-0228n
Comment Excerpt Number: 1

Comment: We appreciate the commitment in the preamble and recognition that very, very little, if any, of the data you will be receiving is confidential business information. We also appreciated the preamble's commitment to make this data rapidly available to the public. We are concerned this doesn't appear in the rule text itself. It ought to.

Response: For the response on CBI see the response to EPA-HQ-OAR-2008-0508-0228n Excerpt 2. With respect to the commenters concern that the rule text does not include a commitment to make the data rapidly available, it is not feasible to include a specific timeline or schedule for making reported data available to the public. The time needed for making data publicly available is subject to variables that are not under the EPA's control, such as the quality of reported data and the timeliness with which data are reported, and the time that may be needed to resolve the status of data that are claimed to be CBI. Nevertheless, EPA will make the reported data publicly available as soon as practicable after it is reported.

Commenter Name: Timothy O'Connor
Commenter Affiliation: Environmental Defense Fund
Document Control Number: EPA-HQ-OAR-2008-0508-0228h
Comment Excerpt Number: 9

Comment: Finally, what I would say is that in the 21st Century we have some very valuable tools which have been developed. Whether it's through technology, through reporting or through technology and monitoring. I think we've heard there is some valuable pieces of equipment out there that can be used for direct measurement monitoring. What I would say is that for far too long, though, pollution reporting has been encumbered by slow quality assurance procedures and information data basis that might tend to undermine accessibility. We need to be using our 21st Century resources to open up these data sources for transparency purposes as well as for ease of reporting purposes, and in addition to allow the public to access the data. As we shine more light on this data, we open up for public disclosure and for the public to see who the major emitters are in this country, and to see who the emitters are in the neighborhoods and to let emitters report in an easier fashion. We both increase the compliance, we increase the efficacy and we increase the overall public awareness and belief that we are creating a system which is valuable and which can serve as a basis for future policy.

Response: See the response to EPA-HQ-OAR-2008-0508-0212u Excerpt 6.

Commenter Name: L. Annetta
Commenter Affiliation: George Washington University School of Public Health
Document Control Number: EPA-HQ-OAR-2008-0508-0255.1
Comment Excerpt Number: 3

Comment: By requiring that GHG emissions be reported, EPA and other scientists will gain a more accurate understanding of how much the United States is polluting our air, contributing to climate change, and therefore harming public health. Based on this information, scientists will be able to determine how much corrective action will be required. It will also set the stage for future regulation of GHGs. Once caps are put on allowable GHG emissions, this may slow down many of the public health affects that our nation faces. Also, the reporting of GHGs will bring awareness to the issue. There reports should be made public, which will pressure companies to reduce the amount of GHGs they emit even without regulation since it would be unfavorable publicity for a company to be at the top of the list of GHG polluters. Still, it would be wise of the EPA to begin regulation under the Clean Air Act now, and to use the reports to then adjust maximum allowable levels.

Response: See preamble Section V.B.5 on Data Dissemination and Public Access to Emissions Data.

Commenter Name: J. Carl Maxwell
Commenter Affiliation: The American Chemical Society (ACS)
Document Control Number: EPA-HQ-OAR-2008-0508-0305
Comment Excerpt Number: 2

Comment: We urge you to provide the data gathered in a registry in an easily accessible online format to the general public. Making data collection about climate change widely available will be important to giving the public and policymakers the information they need for making decisions.

Response: EPA agrees with the commenter on the importance of collecting relevant GHG emissions data in the decision making process. The reported data will be important to the public and government officials to evaluate the impact of policy decisions that will be made in the future and to achieve a transparent decision making process. EPA will work to make data publicly available as soon as practicable after the March 31 reporting deadline. However, the EPA also recognizes that some data may be considered confidential business information (CBI) by the reporters, and may not be disclosed to the public. See the response to EPA-HQ-OAR-2008-0508-0228n Excerpt 2.

Commenter Name: Sonal Mahida
Commenter Affiliation: Carbon Disclosure Project
Document Control Number: EPA-HQ-OAR-2008-0508-0306.1
Comment Excerpt Number: 1

Comment: CDP agrees with EPA that in order to address the market externality created by unregulated greenhouse gas emissions it is first of all necessary to generate relevant data. This will enable a second step of creating policies and measures to price greenhouse gas emissions into decision-making. CDP agrees that the development of future GHG policies will be an important benefit of the draft rule. CDP thinks that EPA downplays the importance and benefit to the public of making this data available to the marketplace and in particular to investors. This data availability will be increasingly important as the United States and the world move towards greater regulation of greenhouse gas emissions. CDP's international success and recognition is a reflection of the demand by institutional investors and procuring organizations to make decisions

that take climate change information into account. The large new data resource that will be generated by any new reporting rule in the United States will make it more possible than ever for investors and purchasers to compare the performance of similar companies and to assess their relative exposure to future climate change related risks and liabilities. This will be a very important step towards redesigning the market to reflect the true cost of greenhouse gas emissions, and to building a more sustainable, low-carbon economy in the United States.

Response: See the response to EPA-HQ-OAR-2008-0508-0305 Excerpt 2.

Commenter Name: See Table 1
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0358
Comment Excerpt Number: 6

Comment: I applaud the EPA's decision to ensure ready public access to all reporting data.

Response: EPA thanks the commenter for their input. Furthermore, see preamble Section V.B.5 on Data Dissemination and Public Access to Emissions Data.

Commenter Name: Laurence K. Lau
Commenter Affiliation: State of Hawaii Department of Health
Document Control Number: EPA-HQ-OAR-2008-0508-0420
Comment Excerpt Number: 3

Comment: Continue and strengthen partnerships. EPA should continue to work with the States, various partners, and among its various internal organizations to promote and achieve information technology interoperability and information sharing. This is critical to achieving the unity and ease of reporting advocated above. EPA has already come a long way on this path, as demonstrated by its consolidated emissions reporting schema and its work with the EPA-States Exchange Network and The Climate Registry. We urge continued cooperation for ultimate success. In the long run, implementation of a well designed system is more important than immediate time goals; it will save so much time and money for reporters and agencies over the long run. We seek active partnership with EPA to go beyond merely allowing states to develop their own emissions reporting. EPA should accommodate and plan for reporting through state mandatory systems and voluntary reporting systems. As an example, if EPA ends up foregoing third party verification, the IT systems should still allow for submission of third party verified information. The rule, and EPA efforts, should seek consistency between the different jurisdictions' reporting requirements and make data exchange as easy as possible.

Response: See preamble Section V.B.5 on Data Dissemination and Sharing Emissions Data with Other Agencies, preamble Section II.O on the Role of States and the Relationship of this Rule to Other Programs and preamble Section V1.B.1 on the Role of States in compliance and enforcement. For the response on data exchange see the response to EPA-HQ-OAR-2008-0508-0453.1 Excerpt 24 regarding the use of CERS.

Commenter Name: Christina Gruenhagen
Commenter Affiliation: Iowa Farm Bureau Federation (IFBF)

Document Control Number: EPA-HQ-OAR-2008-0508-0470.1
Comment Excerpt Number: 7

Comment: Maintaining the privacy of personal identification information is an important consideration for farmers and ranchers. Unlike the circumstances that apply in most other businesses, farmers often live where they work. Also, unlike most businesses farmers are raising live animals for food. Most farmers maintain strict biosecurity protocols to maintain animal health and minimize the risk of spreading diseases, including flu viruses. In Iowa, farmers and their families have been subject to harassment from activists and others in different contexts when their names and addresses on reports have been made public. For example, in the past few years, farmers have been victims of persons who have shot their animals, run over their animal with vehicles, animals released into the country-side, engines shot out of equipments, tractor tires slashed, feed bunks poisoned, and committed arson on farmer's homes and farm buildings. These incidents are not rare occurrences considering the relatively low-crime state we live in and the perpetrators are rarely identified. These incidents demonstrate the real need to keep personal information confidential in the reporting database. Should the EPA require more detail regarding these events, please contact the undersigned. We would like to ensure that this reporting rule does not jeopardize public health by rendering biosecurity protocols inadequate or that this reporting rule does not provide a public database of farms to target. It does not take much imagination to consider what could happen if someone was motivated to spread a human or animal disease armed with the location information of each farm. We believe that personal identifying information is not essential to achieve the stated purposes of this rule. The nature of greenhouse gases is different from criteria pollutants currently regulated under the Clean Air Act. Criteria pollutants are local in nature and their dispersal may occur regionally. Greenhouse gases, on the other hand, are emitted in every part of the world and are dispersed evenly across the planet. From a reporting standpoint, the location of the emission or identity of the emitter makes no difference. The effect of the emission is the same wherever its source. Unlike criteria pollutants, there is no benefit to be gained by divulging where the GHG emission came from. The benefit to EPA and to the public from a reporting rule is to know the amount of emissions only. EPA may need to know emission sources for tracking purposes, but that same need does not extend to the public. Another factor weighing against disclosure of personal identifying information is the fact that this is a reporting requirement only, and there are no regulatory measures associated with it. Unlike community right to know laws where emissions are local in nature and may have direct health risks, GHG emissions mix globally and, according to EPA, carry no direct health risks. It would be virtually impossible to associate any particular effect with any particular GHG emission, since there are so many different and varied sources of GHG emissions that are outside the scope of this rulemaking. There is no public benefit to be gained from posting names and addresses of reporters under this rule. The benefits of privacy and confidentiality clearly outweigh any costs. We recommend that names and addresses of reporters not be released to the public.

Response: For the response on personal identification information see the response to EPA-HQ-OAR-2008-0508-0228n Excerpt 2 on CBI.

Commenter Name: Lauren E. Freeman
Commenter Affiliation: Hunton & Williams LLP
Document Control Number: EPA-HQ-OAR-2008-0508-0493.1
Comment Excerpt Number: 38

Comment: In order to provide transparency, EPA proposes to publish data submitted under the rule through a variety of mechanisms, including making it available on EPA's website and sharing it with other agencies. 74 Fed. Reg. at 16,595. UARG has no objection to publication of the data (excluding any confidential business information). However, to provide full transparency and ensure that the data can readily be understood, EPA must ensure that the information presented includes identification of the method used to estimate emissions, including identification of circumstances in which missing data procedures have been used. In UARG's experience with EPA electronic reporting programs, that information often is included in reports only by using codes or other identifiers that the general public or other agencies may not understand without further explanation.

Response: See preamble Section V.B.5 on Data Dissemination and Public Access to Emissions Data.

Commenter Name: J. Randall Curtis MD
Commenter Affiliation: American Thoracic Society (ATS)
Document Control Number: EPA-HQ-OAR-2008-0508-0510.1
Comment Excerpt Number: 2

Comment: We note one of the purposes of the program is to publicly report the amount of anthropogenic GHGs emitted in the U.S. We strongly encourage the EPA to ensure that publicly available data from GHGs reporting is linked to existing EPA databases. We specifically recommend that reported GHG emissions be linked to the EPA air pollution modeling program BENMAP. We believe linking the GHG emissions data to BENMAP will allow researchers to better understand the potential human health effects associated with GHG emissions.

Response: With respect to the specific request on the BENMAP model, EPA plans to provide linkages to BENMAP and other Agency programs through locational and other attributes made available in FRS.

Commenter Name: Leah Donahey
Commenter Affiliation: none
Document Control Number: EPA-HQ-OAR-2008-0508-0620.1
Comment Excerpt Number: 5

Comment: I support the EPA's decision to ensure public access to all reporting data.

Response: EPA thanks the commenter for their input. Furthermore, see preamble Section V.B.5 on Data Dissemination and Public Access to Emissions Data.

Commenter Name: See Table 10
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0635
Comment Excerpt Number: 2

Comment: Emissions data collected under this rule will be of broad public interest and importance and will further EPA's larger policy goals. Providing swift and comprehensive

access to GHG data will allow independent analysts to offer useful feedback on the rule's implementation. State regulators can likewise use EPA data to inform their own policies and to respond directly to federal initiatives. And businesses can identify emissions trends in their industries and work to improve competitiveness by reducing their own emissions profiles.

Response: With respect to the value of data collected under this role for State purposes, see the preamble, Section II.O on the role of States and relationship of this rule to other programs.

Commenter Name: See Table 10
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0635
Comment Excerpt Number: 6

Comment: In light of the importance of defending public access to emission data, EPA, should establish the following basic principles in the text of the rule as a separate, stand-alone section: 1. All emission data provided to EPA under the rule, or collected during verification or other compliance audits, within three months of receipt by EPA shall be provided to the public in a format that allows for meaningful review and through a comprehensive electronic database available on the Internet. 2. The term 'emission data' in Sections 114 and 208 of the Clean Air Act, and in 40 C.F.R. § 2.301, shall be construed broadly as it applies to all information collected under the mandatory greenhouse gas reporting rule. This includes all evaluation, calculations, analysis, and measurements required to be reported to EPA and used to determine the level of emissions for each facility or reporting entity. 3. EPA has determined, based on the extensive rulemaking record supporting this rule, that the information requested under the rule is necessary to determine greenhouse gas emissions. 4. The data collected under the mandatory greenhouse gas reporting rule, including verification data and the underlying records the rule requires to be kept for inspection, shall be considered to be emission data unless a reporting party can make a clear and convincing showing that the data does not bear upon the calculation of its emissions. 5. Data from fuel suppliers used to determine greenhouse gas emissions shall be considered to be emissions data. 6. Data collected by contractors working with EPA (including third-party verification data, should EPA allow such verification) used to determine greenhouse gas emissions shall be treated just as if it had been gathered by EPA itself. 7. A Freedom of Information Act request shall not be necessary to access data collected under this rule .

Response: For the response on CBI see the response to EPA-HQ-OAR-2008-0508-0228n Excerpt 2.

Commenter Name: Christina T. Wisdom
Commenter Affiliation: Texas Chemical Council (TCC)
Document Control Number: EPA-HQ-OAR-2008-0508-0638.1
Comment Excerpt Number: 10

Comment: TCC requests more information from EPA as to how the agency will manage the data and make them available to the public.

Response: See preamble Section V.B.5 on Data Dissemination and Public Access to Emissions Data.

Commenter Name: David Rich
Commenter Affiliation: World Resources Institute (WRI)
Document Control Number: EPA-HQ-OAR-2008-0508-0642.1
Comment Excerpt Number: 17

Comment: All emissions data submitted to EPA should be made publicly available on the Internet in a transparent and timely fashion. As much data as possible that is reported under this regulation should be made public. For a cap-and-trade program, public disclosure of emissions data is necessary to: 1. Ensure an efficient and well-functioning emissions market by providing market participants with transparent, up-to-date information; and 2. Build public confidence in the program by transparently documenting compliance and emissions trends. Public disclosure also ensures public accountability, which provides an additional driver for companies and facilities to reduce emissions. The Toxics Release Inventory is credited with achieving reductions in chemical releases by requiring public reporting at the facility level. Emissions data should not be claimed as confidential business information. Public reporting of GHG emissions and fuel use data in the electric power sector is already commonplace through EPA's eGRID database, which contains publicly available fuel use and CO_2 emissions data at the power plant level. Facility-level CO_2 emissions data are publicly available for electric generating units covered by the U.S. Acid Rain Program and facilities covered by the EU-ETS. Unlike process-specific activity data or fuel input data, emissions data are less likely to present competitive risks and will provide the most benefit to the public and participants in emissions trading and other regulatory programs.

Response: For the response on public disclosure of emissions data see the response to EPA-HQ-OAR-2008-0508-0228n Excerpt 2 on CBI.

Commenter Name: Meg Voorhes
Commenter Affiliation: Social Investment Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0657.1
Comment Excerpt Number: 11

Comment: SIF is not interested in requiring reporters to do more work than necessary in reporting GHG emissions. However, we are interested in the proposed GHG data set being as complete as possible. Any system that would require users of GHG emissions data to search and aggregate data from multiple sources within EPA would significantly decrease the utility of the new GHG emissions data set. We suggest that the final Rule make an explicit commitment to one of the following: a. Any GHG data reported to another EPA program will be incorporated into the GHG data set by EPA in a manner that is completely consistent with the definitions of the data set; or b. EPA will make the GHG data set created under this Rule the primary reporting mechanism and other EPA programs will use this data for their purposes.

Response: EPA proposed to use existing reporting systems, where feasible, to satisfy the requirements of this rule. However, if a reporter uses an existing system EPA will require reports in the format of both the existing program and the new data reporting system developed for the mandatory GHG reporting rule. This approach will permit results from this collection to be stored in a consistent dataset as suggested in the comment.

Commenter Name: Meg Voorhes
Commenter Affiliation: Social Investment Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0657.1
Comment Excerpt Number: 19

Comment: We propose that EPA make the entire data set available in a single annual CSV (comma separated value) format for download from the website. If the file is of such a size that either the download of the entire file, or the use of the entire file in typical off-the shelf data software would be problematic, we suggest that a series of related files be made available so that potential users can easily download all relevant records through multiple files with assurance that no records have been missed. While EPA-supported online tools such as EnviroFacts and ECHO are useful for relatively small data queries, certain users, including many from our investor community, need greater unimpeded access to entire sets of data that are very difficult to import through these front-end tools. The easy availability of the entire data set is extremely important to these users, who are often intermediaries for many other organizations wishing to make use of the data.

Response: EPA intends to make the results of this data collection available in a variety of formats including delimited text. Furthermore, see preamble Section V.B.5 on Data Dissemination and Public Access to Emissions Data. For the response on public disclosure of emissions data see the response to EPA-HQ-OAR-2008-0508-0228n Excerpt 2 on CBI.

Commenter Name: James M. Bushee
Commenter Affiliation: PGC Electricity Committee
Document Control Number: EPA-HQ-OAR-2008-0508-0683.1
Comment Excerpt Number: 9

Comment: In addition to direct costs of compliance, the GHG Reporting Proposal also threatens to impose indirect burdens resulting from the lack of CBI protection. Coupled with EPA's plans to make non-confidential information broadly available on the Agency's website, reports and other formats, the reporting program could significantly reduce competitiveness and profit margins. EPA notes that this approach would promote a "level of transparency [that] would inform the public and facilitate greater data verification and review." We believe that alternative approaches exist that would likewise serve these ends without sacrificing the protection of confidential information or compromising the environmental benefits of the GHG reports. For example, public information needs can be satisfied through the publication of aggregate (rather than facility-specific) emissions data, grouped and sortable by various parameters, such as total sector emissions, state- and region-level emissions, and fuel-type correlated emissions. Meanwhile, data verification needs can be addressed through, for example, the engagement of an independent third-party auditor. This approach has proven successful in other EPA programs (e.g., EPA's gasoline programs under 40 C.F.R. Part 80).

Response: For the response on CBI see the response to EPA-HQ-OAR-2008-0508-0228n Excerpt 2 on CBI.

Commenter Name: Mark Maslyn
Commenter Affiliation: American Farm Bureau Federation (AFBF)
Document Control Number: EPA-HQ-OAR-2008-0508-0693.1
Comment Excerpt Number: 5

Comment: Maintaining the privacy of personal identification information is an important consideration for farmers and ranchers. Unlike the circumstances that apply in most other businesses, in agriculture farmers and ranchers often live on the same premises where they work. Farmers and ranchers and their families have been subject to harassment from activists and others in different contexts when their names and addresses on reports have been made public. We would like to ensure that this situation does not occur with regard to this reporting rule. The nature of greenhouse gases is different from criteria pollutants currently regulated under the Clean Air Act. Criteria pollutants are local in nature and their dispersal may occur regionally. Greenhouse gases, on the other hand, are emitted in every part of the world and are dispersed evenly across the planet. Thus, a ton of GHG emitted in Arlington, Virginia – if in fact it has an impact on the climate – is the same as a ton of GHG emitted in Beijing, China. Thus from a reporting standpoint, the location of the emission or identity of the emitter makes no difference. The effect of the emission is the same wherever its source. Unlike criteria pollutants, there is no benefit to be gained by divulging where the GHG emission came from. The benefit to EPA and to the public from such a rule is to know the amount of emissions only. EPA may need to know emission sources for tracking purposes, but that same need does not extend to the public. Another factor weighing against disclosure of personal identifying information is the fact that this is a reporting requirement only, and there are no regulatory measures associated with it. Unlike community right to know laws where emissions are local in nature and may have direct health risks, GHG emissions mix globally and, according to EPA, carry no direct health risks. It would be virtually impossible to associate any particular effect with any particular GHG

emission, since there are so many different and varied sources of GHG emissions that are outside the scope of this rulemaking. There is no public benefit to be gained from posting names and addresses of reporters under this rule. The benefits of privacy and confidentiality clearly outweigh any costs. We recommend that names and addresses of reporters not be released to the public.

Response: For the response on personal identification information see the response to EPA-HQ-OAR-2008-0508-0228n Excerpt 2 on CBI. EPA believes the data collected under this rule is necessary to support future policy development and to build public confidence in the quality of the data.

Commenter Name: Jennifer McGraw
Commenter Affiliation: Center for Neighborhood Technology (CNT)
Document Control Number: EPA-HQ-OAR-2008-0508-0723.1
Comment Excerpt Number: 1

Comment: We support EPA's commitment to make the data reported under this rule available to the public and other agencies. The reporting of all of these data have the potential to expedite the process of creating state and local government greenhouse gas inventories and emission reduction action plans. Communities have not historically had easy access to data on GHG emissions from landfills, wastewater treatment, industrial facilities or emissions from other GHG sources in their jurisdiction. Therefore we strongly encourage EPA to require that activity data and associated emissions be reported with geographic labels of a detailed scale such as ZIP + 4. Larger geographies such as ZIP Code or municipality would less preferable, but still useful. We also strongly encourage EPA to make these data publicly available online in a format compatible with analytical tools like geographic information systems. If there are confidentiality issues with releasing raw facility-level data, we suggest the use of a data intermediary to aggregate and make available data by ZIP + 4, zip code or community rather than only releasing state or nationally aggregated data.

Response: Zip Code is a data element which will be collected from facilities under this rule. In addition, covered facilities and suppliers are expected to be part of the Agency's Facility Registry System (FRS), which contains the latitude and longitude of facility records. A latitude and longitude will be able to "place" reported facilities in a geographic location that meets the requirements of Zip Code plus 4 for accuracy.

Commenter Name: James Salo
Commenter Affiliation: Trucost Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0984.1
Comment Excerpt Number: 5

Comment: We recommend that this information is made publicly available by the EPA, or that companies are required to report emissions in line with the Greenhouse Gas Protocol on a financial-year basis in 10 -K reports. Companies could also be required to report separately the quantities of greenhouse gas emissions that are covered by cap-and-trade schemes (such as the Regional Greenhouse Gas Initiative). This would enable investors to model potential exposure to carbon costs, thereby enabling informed investment decisions to be made on a company-by-company basis.

Response: For a response on the reporting schedule, see comment response document Volume 12, Subpart A: Applicability and Reporting Schedule. Also, please note reporters are required to report the information described in the general provisions and relevant subparts; no further reporting beyond the requirements described in this rule are required.

B. Sharing Data with Other State and Federal Agencies

Commenter Name: Lauren Trevisan
Commenter Affiliation: Sierra Club
Document Control Number: EPA-HQ-OAR-2008-0508-0212u
Comment Excerpt Number: 1

Comment: EPA's decision to share this data with the States and to use many reporting protocols that industries are already familiar with will make compliance easier and ensure that information moves quickly between State and Federal systems.

Response: See the preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.5. on Data Dissemination.

Commenter Name: R. Steven Brown
Commenter Affiliation: Environmental Council of the States (ECOS)
Document Control Number: EPA-HQ-OAR-2008-0508-0277.2
Comment Excerpt Number: 1

Comment: As the states and U.S. EPA move toward establishing rules on greenhouse gas reporting, we have an opportunity to establish an efficient and sensible process for sharing emissions information and minimizing state reporting burdens. With your help and leadership, EPA can establish a single data exchange standard for greenhouse gases (GHGs) and other air pollutants. As you know, states and EPA have made significant investments in the National Environmental Information Exchange Network to improve the accuracy, efficiency, and timeliness of data sharing. As a result, the Exchange Network is now well positioned to support exchanges of GHG emissions data among states and EPA. The Network currently has a standard in place for sharing air emissions data as part of the annual National Emissions Inventory (NEI). EPA's Office of Air Quality Planning and Standards (OAQPS) is currently revising this standard as part of a re-engineering process. Simultaneously, the Office of Atmospheric Programs (OAP) is developing a new exchange standard specifically for GHG emissions. Our understanding is that the two offices are considering combining the two efforts and adding the six GHGs to the revised NEI standard, but we have not yet heard a firm commitment to a single standard. We strongly support this approach and we ask for your help in encouraging EPA to commit to developing a single exchange standard based on the Exchange Network. That method offers states and EPA one efficient and expandable way of sharing all air emissions data, including GHGs, while supporting state and EPA goals for state reporting burden reduction. We must act swiftly to maximize the benefits and add value to other related efforts. For example, the standards-based nature of the Network makes it a viable option for exchanging data with other organizations such as The Climate Registry (TCR). TCR is currently implementing a solution for recording voluntary reports of GHG emissions and it is interested in using the Exchange

Network as a data sharing mechanism. TCR plans to become operational in July 2008, so it will require information on the exchange standard as soon as possible if it is to design the registry to be compatible with the Exchange Network. Your attention to this matter would help states and EPA move toward an interoperable and efficient air pollutant data system. We appreciate any assistance you can provide to help make this a reality.

Response: See the preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.5. on Data Dissemination. EPA intends to involve stakeholders as we develop the database. For the response on further development of CERS, see the preamble, Section V.B.5 on Data Dissemination, particularly the discussion on Sharing Data with Other Agencies and the response to EPA-HQ-OAR-2008-0508-0453.1 Excerpt 24. EPA also agrees that CERS can be used to share data across the Exchange Network. For the response on the relationship of this rule to the NEI, see preamble Section V.B.3. on data collection methods and the response to comment EPA-HQ-OAR-2008-0508-0404.1 excerpt 2.

Commenter Name: Laurence K. Lau
Commenter Affiliation: Hawaii Department of Health
Document Control Number: EPA-HQ-OAR-2008-0508-0329.1
Comment Excerpt Number: 3

Comment: EPA should continue to work with the States, various partners, and among its various internal organizations to promote and achieve information technology interoperability and information sharing. This is critical to achieving the unity and ease of reporting advocated above. EPA has already come a long way on this path, as demonstrated by its consolidated emissions reporting schema and its work with the EPA-States Exchange Network and The Climate Registry. We urge continued cooperation for ultimate success. In the long run, implementation of a well designed system is more important than immediate time goals; it will save so much time and money for reporters and agencies over the long run.

Response: See the response to EPA-HQ-OAR-2008-0508-0277.2 Excerpt 1.

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Commenter Name: Douglas P. Scott
Commenter Affiliation: Illinois Environmental Protection Agency (Illinois EPA)
Document Control Number: EPA-HQ-OAR-2008-0508-0387.1
Comment Excerpt Number: 4

Comment: The rule should be designed in a manner that allows dissemination and use of the data by states and locals, and other organizations. State's ability to view, retrieve, and utilize data in U.S. EPA's data storage system has historically been a problem with inventory data for states. Illinois EPA suggests that U.S. EPA use common identifiers for the reporting facilities (state ID #'s, permitted facility names and locations) so that states and others wishing to utilize the data can readily identify the reporting facility.

Response: The facility or supplier name, physical address, city, state and zip code are required data elements to be reported under the rule and will be incorporated into the Agency's Facility Registry System (FRS). Data will be shared in a timely fashion with States and tribes through various means including the Exchange Network. See preamble, Section V.B.3 for the response to comments on submission methods and Unique Identifiers for Facilities and Units.

Commenter Name: Janice Adair
Commenter Affiliation: Western Climate Initiative (WCI)
Document Control Number: EPA-HQ-OAR-2008-0508-0443.1
Comment Excerpt Number: 9

Comment: WCI understands that U.S. EPA will also have a control program and may want to be the first recipient of data reported under this rule to support that program. If U.S. EPA decides in the final rule that it must carry out that role, we urge that states be granted timely access to the data needed to support their control programs. The WCI would be glad to work with U.S. EPA to develop a mechanism through The Climate Registry, which is developing the shared data system for the WCI jurisdictions, to allow for effectively simultaneous state and federal access to emissions reports in a manner that meets our mutual needs.

Response: See the preamble, Section II.O on the role of States and relationship of this rule to other programs, and preamble Section V.B.5. on Data Dissemination. EPA intends to involve stakeholders as we develop the database. See the response in the preamble, Section V.B.3 on Data Collection Methods.

Commenter Name: Tracy Babbidge
Commenter Affiliation: Connecticut Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0449.1
Comment Excerpt Number: 4

Comment: For those states that decide to rely on EPA for such data collection, the final GHG reporting rule should specify the time frames in which EPA will process the data and disseminate it to the states. An increasing number of states, such as Connecticut, now have state-mandated GHG reduction targets and time frames and will need timely GHG data from EPA to address these state requirements. Other states have in place mandates for GHG reporting requirements and many of these requirements are more stringent than the 25,000 tons GHG per year proposed by EPA. EPA should ensure the final GHG reporting rule can account for such local and regional differences.

Response: EPA has not specified time frames in the final rule, but we plan to promptly process data and make it available to States soon after it is reported to us with the exception of CBI. EPA has proposed a Exchange Network grant activity to work jointly with states on quality assuring the preliminary results of this data collection; see the FY2010 Exchange Network grant solicitation for more information. For the response on state delegation and state access to data, see the preamble, Section VI.B.1. on the role of States in compliance and enforcement, as well as preamble, Section II.O on the role of States and relationship of this rule to other programs, Section V.B.3. on Data Collection Methods, and Section V.B.5 on Data Dissemination. For the response on CBI see the response to EPA-HQ-OAR-2008-0508-0228n Excerpt 2.

Commenter Name: Mary Uhl
Commenter Affiliation: New Mexico Environment Department
Document Control Number: EPA-HQ-OAR-2008-0508-0450.1
Comment Excerpt Number: 7

Comment: New Mexico understands that U.S. EPA may want to be the first recipient of data reported under this rule to support that program. If U.S. EPA decides in the final rule that it must carry out that role, we urge that states be granted timely access to the data needed to support their control programs.

Response: See the response to EPA-HQ-OAR-2008-0508-0449.1 Excerpt 4.

Commenter Name: James B. Martin
Commenter Affiliation: Colorado Department of Public Health and Environment
Document Control Number: EPA-HQ-OAR-2008-0508-0554.1
Comment Excerpt Number: 4

Comment: Colorado encourages swift and transparent disclosure of data relying on the best information technologies. We would like to know how the states will access this data – verified or otherwise. Data reported to satisfy this proposed rule should be easily accessible to states and local governments in a timely manner, regardless of where it is collected, to help respond to data needs and requirements.

Response: See the response to EPA-HQ-OAR-2008-0508-0449.1 Excerpt 4.

Commenter Name: David Thornton
Commenter Affiliation: National Association of Clean Air Agencies (NACAA)
Document Control Number: EPA-HQ-OAR-2008-0508-0563
Comment Excerpt Number: 3

Comment: For states that do not choose to collect data in the first instance, data reported to satisfy this rule should be readily available from EPA in a timely manner – electronically and without unwarranted delays. To accomplish this objective, the reporting protocols and procedures of EPA's data collection system should be compatible and consistent with the reporting protocols and procedures of states, localities and TCR. The rule should also include time lines and schedules for federal data-handling and dissemination to states. Further, to ease the burden on the regulated community, we suggest that EPA should consider how to accomplish this in a manner that does not require duplicate reporting.

Response: See the response to EPA-HQ-OAR-2008-0508-0449.1 excerpt 4. For the response on compatibility see the response to EPA-HQ-OAR-2008-0508-0453.1 excerpt 24 on CERS.

Commenter Name: Jeff A. Myrom
Commenter Affiliation: MidAmerican Energy Holdings Company
Document Control Number: EPA-HQ-OAR-2008-0508-0581.1
Comment Excerpt Number: 59

Comment: EPA should collect and publish the data in a format that allows for database inquiry that would allow regions, states and localities to utilize its data.

Response: See preamble Section V.B.5 on Data Dissemination and Public Access to Emissions

Data.

Commenter Name: William Yanek
Commenter Affiliation: Glass Association of North America (GANA)
Document Control Number: EPA-HQ-OAR-2008-0508-0586.1
Comment Excerpt Number: 4

Comment: To the extent the state and regional administrators of these non-federal reporting programs require access to the GHG emissions data on a facility-by-facility basis in order to develop GHG reduction policy or for other reasons, EPA may and should make the reported emissions data available to the states and regions for their own purposes, subject, however, to the limitations on disclosure of confidential business information ("CBI") set forth in 40 CFR § 2.301, including § 2.301(e). And EPA proposes to do precisely that. See 74 Fed. Reg. at 16595.

Response: See the response to EPA-HQ-OAR-2008-0508-0449.1 excerpt 4.

Commenter Name: Keith Overcash
Commenter Affiliation: North Carolina Division of Air Quality (NCDAQ)
Document Control Number: EPA-HQ-OAR-2008-0508-0588
Comment Excerpt Number: 31

Comment: If EPA will receive the data directly from facilities, EPA should provide a means for the collected data to also be provided to the state at the time of data collection.

Response: See the response to EPA-HQ-OAR-2008-0508-0449.1 excerpt 4.

Commenter Name: Stuart A. Clark
Commenter Affiliation: Washington State Department of Ecology (Ecology)
Document Control Number: EPA-HQ-OAR-2008-0508-0646.1
Comment Excerpt Number: 3

Comment: The proposed rule also requires that emissions data be reported directly to EPA instead of to the states. This requirement poses challenges to states with existing reporting requirements, which will have to rely on EPA to release reporting data or require separate reporting to the state. If EPA proceeds with this requirement, we ask that EPA release reporting information as soon as possible to the states.

Response: See the response to EPA-HQ-OAR-2008-0508-0449.1 excerpt 4.

Commenter Name: Alice Edwards
Commenter Affiliation: Alaska Department of Environmental Conservation (ADEC)
Document Control Number: EPA-HQ-OAR-2008-0508-0720.1
Comment Excerpt Number: 6

Comment: For states that do not take advantage of an EPA delegation, it will be important for them to have access to data in a timely way and in an electronic format. Because the data will be

sent directly to EPA, states will have to wait for EPA to finalize the data and provide it back to them. It will be important that EPA provide time lines and schedules for this processing time. ADEC encourages EPA to include these schedules into the final rulemaking. In addition, as mentioned previously, ADEC urges EPA to use a data collection system with reporting protocols and procedures compatible and consistent with the reporting protocols and procedures of states.

Response: See the response to EPA-HQ-OAR-2008-0508-0449.1 excerpt 4.

Commenter Name: Jeanne Herb
Commenter Affiliation: New Jersey Department of Environmental Protection (NJDEP)
Document Control Number: EPA-HQ-OAR-2008-0508-0834.1
Comment Excerpt Number: 5

Comment: The USEPA should make all data reported under the rule readily available to states and the public using familiar data formats. The proposed USEPA reporting program is a federal program. Facilities report directly to USEPA, with no data reported to the states. However, the proposed rule is unclear on the methods facilities will use to report data to the USEPA. As such, it is next to impossible for states to comment on accessibility of the data for state programs. The proposed rule is also unclear what methods USEPA will use to share data with states and other stakeholders. The USEPA should use the existing electronic formats, such as the NEI and the Environmental Exchange Network, to share data with the states. States and facilities are familiar with these data requirements and formats and have invested significant resources into developing and using these methods. These methods have been proven effective at sharing data between the states and USEPA and should be used for the greenhouse gas information.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0449.1 excerpt 4. For the response on sharing data see the response to comment EPA-HQ-OAR-2008-0508-0453.1 excerpt 24 on CERS.

Commenter Name: Bill Thompson
Commenter Affiliation: National Tribal Air Association (NTAA)
Document Control Number: EPA-HQ-OAR-2008-0508-1144.1
Comment Excerpt Number: 4

Comment: Parties could then report all required (EPA and state/tribe) data in one location, thereby making it easier for the Agency to share its GHG data with states and tribes. The EPA could either share certain data fields with states and tribes that have Common Framework modules, or the Agency could transfer GHG data to states and tribes via an Exchange Network.

Response: For the response on sharing data see the response to comment EPA-HQ-OAR-2008-0508-0453.1 excerpt 24 on CERS.

Table 1

COMMENTER	AFFILIATE	DCN
C. Lish	Sierra Club	EPA-HQ-OAR-2008-0508-0358
See Docket EPA-HQ-OAR-2008-0508 for a memorandum listing all members of the Sierra Club who submitted comment letters identical to EPA-HQ-OAR-2008-0508-0358.		

Table 2

COMMENTER	AFFILIATE	DCN
Bruce Thompson	American Exploration and Production Council	EPA-HQ-OAR-2008-0508-0367.1
William W. Grygar II	Anadarko Petroleum Corporation	EPA-HQ-OAR-2008-0508-0459.1

Table 3

COMMENTER	AFFILIATE	DCN
James Greenwood	Valero Energy Corporation	EPA-HQ-OAR-2008-0508-0571.1 EPA-HQ-OAR-2008-0508-0571.2
Charles T. Drevna	National Petrochemical and Refiners Association	EPA-HQ-OAR-2008-0508-0433.1 EPA-HQ-OAR-2008-0508-0433.2

Table 4

COMMENTER	AFFILIATE	DCN
Olon Plunk	Xcel Energy Inc.	EPA-HQ-OAR-2008-0508-0444
Debra J. Jezouit	Class of '85 Regulatory Response Group	EPA-HQ-OAR-2008-0508-0455.1

Table 5

COMMENTER	AFFILIATE	DCN
Lisa Beal	Interstate Natural Gas Association of America (INGAA)	EPA-HQ-OAR-2008-0508-0480.1
Richard Bye	CenterPoint Energy, Inc.	EPA-HQ-OAR-2008-0508-2124.1
Brianne Metzger	Spectra Energy Corporation	EPA-HQ-OAR-2008-0508-0364.1

Table 6

COMMENTER	AFFILIATE	DCN
Olon Plunk	Xcel Energy Inc.	EPA-HQ-OAR-2008-0508-0444
R. Skip Horvath	Natural Gas Council (NGC)	EPA-HQ-OAR-2008-0508-0530.1

Table 7

COMMENTER	AFFILIATE	DCN
Karin Ritter	American Petroleum Institute (API)	EPA-HQ-OAR-2008-0508-0679.1
James Greenwood	Valero Energy Corporation	EPA-HQ-OAR-2008-0508-0571.1
William W. Grygar II	Anadarko Petroleum Corporation	EPA-HQ-OAR-2008-0508-0459.1

Table 8

COMMENTER	AFFILIATE	DCN
Johnny R. Dreyer	Gas Processors Association (GPA)	EPA-HQ-OAR-2008-0508-0412.1
William W. Grygar II	Anadarko Petroleum Corporation	EPA-HQ-OAR-2008-0508-0459.1

Table 9

COMMENTER	AFFILIATE	DCN
Chris Hobson	The Southern Company	EPA-HQ-OAR-2008-0508-1645.1
Quinlan J. Shea, III	Edison Electric Institute (EEI)	EPA-HQ-OAR-2008-0508-1021.1

Table 10

COMMENTER	AFFILIATE	DCN
Craig Holt Segall	Sierra Club	EPA-HQ-OAR-2008-0508-0635.1
Melissa Thrailkill	Center for Biological Diversity	EPA-HQ-OAR-2008-0508-0430.1